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RELATIVE TO THE

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COMMISSIONERS OF TRANSPORTATION

OF THE

STATE OF CALIFORNIA,

THEIR POWERS AND DUTIES.

Approved April 3, 1876.

SACRAMENTO:
STATE PRINTING OFFICE.

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CHAP. DXV.—*An Act to provide for the appointment of Commissioners of Transportation, to fix the maximum charges for freights and fares, and to prevent extortion and discrimination on railroads in this State.*

[Approved April 3, 1876.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

CHAPTER ONE.

SECTION 1. On or before the fifteenth day of May, eighteen hundred and seventy-six, the Governor shall appoint three competent persons, to be styled Commissioners of Transportation, who shall hold office for the period of two years and until their successors are appointed and qualified. The persons who are so appointed shall have no official connection with, nor be in the employ of any railroad corporation or company, nor shall they, during their term of office, own or be interested in the stock, bonds, or other property thereof. Said Commissioners shall have their office in the State Capitol building, at Sacramento.

Governor to appoint three Commissioners.

Commissioners to be disinterested parties.

SEC. 2. Before entering upon the discharge of the duties of their office, each of said Commissioners shall take an oath or affirmation to support the Constitution of the United States and of this State, and to faithfully and honestly discharge his duty as such Commissioner, and that he is not an officer, stockholder, or employé of any railroad, or in any way interested therein, or a stockholder, officer, or employé, or in any way interested in any express or freight company doing business on any of the railroads in the United States, and the said Commissioners shall be citizens of this State; they shall each execute and file with the Secretary of State an official bond, with good and sufficient sureties, to be approved by the Governor, in the penal sum of ten thousand dollars, conditioned for the faithful performance of their duties under this Act.

Oath of Commissioners.

Bond.

SEC. 3. The salary of each Commissioner shall be three thousand dollars per annum, to be paid by the State of California in the same manner as the salary of other State officers are paid. They shall have power to elect one of their number President of said Board, to employ a Secretary at a salary of not exceeding eighteen hundred dollars per annum, and shall be allowed a contingent fund of not exceeding twenty-five dollars per month to defray the necessary expenses of fuel and stationery; the Commissioners and their Secretary shall be transported, in the discharge of their duties, over the various railroads owned by corporations within this State, free of charge.

Salaries.

May employ Secretary.

Fuel and stationery.

SEC. 4. It shall be the duty of such Commissioners, whenever they shall deem it necessary, to inspect all railroads, operated by steam power, within this State, and to examine the same with reference to the security and accommodation of the public; and if, on such examination, in their opinion any of the tracks, bridges, or other structures or works

Commissioners to examine roads, bridges, etc., and report needed repairs.

thereof, are unfit for the transportation of passengers with reasonable safety, it shall be their duty to give to the Superintendent, or other executive officer of the company working or operating said defective track, bridge, or other structure, notice of the condition thereof and the repairs necessary to place the same in a safe condition; and if any Superintendent, or other executive officer aforesaid, receiving such notice and order, shall willfully neglect to commence repairing the same for the period of two days after receiving such notice and order, such Superintendent, or other executive officer, shall be deemed guilty of a misdemeanor.

Willful neglect to repair, a misdemeanor.

Petitions for stations, side-tracks, etc.

SEC. 5. Whenever a petition, signed in good faith by fifty or more property-holders residing within ten miles of any proposed station, switch, or side-track, shall be presented to the Commissioners, praying for the establishment of a new station, switch, or side-track, the Commissioners shall notify the managers of such railroad of such petition, and appoint a time and place for hearing the same. Should the corporation neglect or refuse to comply with the award of the Commissioners, it shall forfeit the sum of one hundred dollars per day from the time fixed by the Commissioners for the completion of the work required, until such work shall be actually completed, to be recovered to the use of the State by suit instituted by said Commissioners in any Court of competent jurisdiction; *provided*, that said Commissioners shall not require such new station, switch, or side-track to be established within less than six miles of one already established.

Hearing of same, award.

Action against corporation, on refusal to comply with award.

Commissioners to serve copy of Act upon corporations.

SEC. 6. Within thirty days after the appointment of said Commissioners, they shall cause a copy of this Act to be served upon every such railroad corporation engaged in the business of transportation within this State; within ten days after the receipt of such notice, it shall be the duty of such corporation, respectively to file with the Commissioners, and in the office of the Secretary of State, and in the office of the County Clerk of each county in which the road is located, a copy, verified by the oath or affirmation of the President, or other chief executive officer, of all and singular the tariffs and rates of freight, passage money, commutation rates and charges, together with copies of all their rules, regulations, and instructions to employes, concerning the carriage of persons and merchandise, under which the road was being operated on the first day of January, eighteen hundred and seventy-six; and it shall not be lawful for any of said corporations to increase any rates of freight or passage, or to raise the classification of any species of goods, or to change any rule or instruction to employes in such manner as to increase the cost of transportation over and above the rates charged in such tariff or in use on the first day of January, eighteen hundred and seventy-six; *provided, nevertheless*, that any such railroad company may issue excursion tickets at reduced rates, for special trains, or between certain places, and for a fixed time.

Corporations to file statements within ten days.

Certain rules, rates, etc., not to be increased.

Railroad companies to furnish information to Commissioners.

SEC. 7. The several transportation companies or corporations operating any railroad in this State, the cars on which are propelled by steam, shall at all times, on demand, furnish

to the Commissioners any and all information required of them, concerning the condition, management, and operation of the railroads under their control respectively, and particularly with copies of all leases, contracts, and agreements for transportation with express companies or otherwise, to which they are parties. The Commissioners shall cause blanks to be prepared, proposing questions calculated to elicit facts and statistics, from which may be deduced the results hereinafter specified as necessary to be accurately known by the people and the Legislature; such blanks shall be furnished to the several corporations in season to be filled in and returned to the Commissioners on or before the first day of October of each year. They shall be sworn to by the President or other executive officer, and by the Auditor, Secretary, or principal book-keeper of the corporation making the same, respectively. They shall be tabulated by the Commissioners, and the reports, together with the tabulations thereof and the deductions therefrom, and the record of all the matters herein required to be reported to the Legislature, with the drafts of all such bills as the Commissioners desire to recommend for passage, shall be submitted to the Legislature on the first day of the next session thereof.

Reports of companies to be submitted to Legislature.

SEC. 8. It is hereby made the duty of the President, or other executive officer, in charge of each and every railroad company having a line of railroad in this State, to make an annual report to the Commissioners for the year ending on the thirtieth day of June preceding, which report shall state:

Annual reports of companies must state.

STOCK AND DEBTS.

1. The amount of capital stock paid in.
2. The amount of capital stock unpaid.
3. The amount of funded debt.
4. The amount of floating debt.

COST OF ROAD AND EQUIPMENTS.

5. Cost of construction.
6. Cost of right of way.
7. Cost of equipment.
8. All other items embraced in cost of road and equipment, not embraced in the preceding schedule.

CHARACTERISTICS OF ROAD.

9. Length of single main track laid with iron or steel.
10. Length of double main track.
11. Length of branches, stating whether they have single or double track.
12. Aggregate length of sidings and other tracks not above enumerated; total length of iron embraced in preceding heads.
13. Maximum grade, with its length in main road, and also in branches.
14. The shortest radius of curvature and locality of each

Annual
reports of
companies
must state.

curve, with length of curve in main road, and also in branches.

15. Total degrees of curvature in main road, and also in branches.

16. Total length of straight line in main road, and also branches.

17. Number of wooden bridges, and aggregate length in feet.

18. Number of iron bridges, and aggregate length in feet.

19. Number of stone bridges, and aggregate length in feet.

20. Number of wooden trestles, and aggregate length in feet.

21. The greatest age of wooden bridges.

22. The average age of wooden bridges.

23. The greatest age of wooden trestles.

24. The number and kind of new bridges built during the year, and length in feet.

25. The length of road unfenced on either side, and the reason therefor.

26. Number of engines.

27. Number of passenger cars.

28. Number of express and baggage cars.

29. Number of freight cars.

30. Number of other cars.

31. The highest rate of speed allowed by express passenger trains when in motion.

32. The highest rate of speed allowed by mail and accommodation trains when in motion.

33. The highest rate of speed allowed by freight trains when in motion.

34. The rate of fare for through passengers charged for the respective classes per mile.

35. The rate of fare for local passengers charged for the respective classes per mile.

36. The highest rate per ton per mile charged for the transportation of the various classes of through freight.

37. The highest rate per ton per mile charged for the transportation of the various classes of local freight.

DOINGS OF THE YEAR.

38. The length of new iron or steel laid during the year.

39. The length of re-rolled iron laid during the year.

40. The number of miles run by passenger trains.

41. The number of miles run by freight trains.

42. The number of through passengers carried in cars.

43. The number of local passengers carried in cars.

44. The number of tons of through freight carried.

45. The number of tons of local freight carried.

EARNINGS FOR THE YEAR.

46. From transportation of through passengers.

47. From transportation of local passengers.

48. From transportation of through freight.

49. From transportation of local freight.
50. From mail and express.
51. From all other sources; total earnings for the year.

EXPENDITURES FOR THE YEAR.

52. For construction and new equipment.
53. For maintenance of ways and structures.
54. For transportation expenses, including those of stations and trains.
55. For dividends: rate per cent. and amount.
- 56, 57, 58, 59, 60. All other expenditures.
61. Total expenditures during the year.
62. The number and kind of farm animals killed, and amount of damages paid therefor.
63. A statement of all casualties resulting in injuries to persons, and the extent and cause thereof; and such other and further information as may be required by the Commissioners.

SEC. 9. Any transportation company, subject to the provisions of this Act, which shall neglect or refuse to make and file its report, as provided in section eight of this Act, or shall neglect or refuse to file its tariffs of freights and fares with the Commissioners, as provided in section six of this Act, shall forfeit and pay to the State of California the sum of not less than one hundred nor more than one thousand dollars for each and every day of such neglect or refusal, the same to be recovered by suit in any Court of competent jurisdiction.

Penalty for neglect to comply.

SEC. 10. All prosecutions against any transportation company, railroad company, or any officer or employé thereof, for forfeitures, penalties, or fines, for the violation of any of the laws relating to said companies or roads, shall be by action in the name of the people of the State of California, and it shall be the duty of such Commissioners to bring in any Court of competent jurisdiction all such actions.

Prosecution.

SEC. 11. Each Commissioner shall have power, thereunto authorized by the Board, to examine the books and papers of any railroad corporation or line, and, also, any railroad officer, agent, or employé, under oath, concerning the condition, management, and operation of the railroads under their direction and control; and it is hereby made the duty of the Superintendent of each transportation and railroad company in the State to notify said Commissioners, by telegraph, of all accidents, immediately upon their occurrence.

Commissioners may examine books of companies.

Superintendent to give notice of accidents.

SEC. 12. Whenever the Directors of any railroad company shall fail to agree with the municipal authorities of any town or city, as to the route of their railroad in any such town or city, either party may petition the Commissioners of Transportation to fix the route in said town or city, and said Commissioners, after due notice to the other party, shall hear the case, and fix the route in such town or city.

Commissioners may fix route in cities and towns.

SEC. 13. It shall be the duty of the Commissioners of Transportation, upon the petition of either party, after twenty

Certain cases to be decided by Commissioners.

days' notice to the other, to hear and decide the following cases: The compensation to be paid by one railroad to another for transporting passengers, merchandise, and cars. To fix such periods and time-tables, having reference to the convenience and interest of the corporation, and the public to be accommodated thereby. To determine what accommodations are required; and, also, the compensation to be paid for the use of terminal accommodations, and for the receiving, transferring, and forwarding of passengers and freight.

Awards of Commissioners to be binding.

SEC. 14. Any award made by the Commissioners of Transportation shall be binding upon the respective corporations and parties interested therein, until the same shall have been revised or altered by said Commissioners, or reversed on appeal to the Supreme Court, as hereinafter provided.

Awards subject to revision.

SEC. 15. Any award made by the Commissioners of Transportation shall be returnable, with the evidence, on the request, in writing, of any party affected thereby, and filed, within thirty days after rendering of such award, in the County Court of the county in which the controversy arose, and shall be there subject to revision, in the same manner as if the said Commissioners had derived their power to act in the premises under the appointment of said Court, with the right of appeal to the Supreme Court, as in other cases.

Suits to recover penalties.

SEC. 16. It shall be the duty of the District Attorneys of the several counties within, into, or through which any railroad runs, or is located, or worked, upon being instructed by said Commissioners, to sue for and recover all penalties for the violation of the railroad laws of this State.

Class of railroads liable.

SEC. 17. The provisions of this Act shall be applicable to railroads, the cars of which are propelled by steam, now or hereafter to be operated by corporations, trustees, companies, or individuals, in this State.

Printing of report.

SEC. 18. There shall be printed two thousand five hundred copies of the report of the Commissioners of Transportation.

Governor may remove Commissioners.

SEC. 19. The Governor shall remove the Commissioners of Transportation at any time, when he becomes satisfied that it is for the public good.

CHAPTER TWO.

OF EXTORTION AND DISCRIMINATION.

SECTION 1. A railroad company shall be deemed guilty of extortion in the following cases:

Extortion defined.

First—When it shall knowingly or willfully charge, demand, or receive from any passenger, as his fare from one station or place to another, any greater sum than is specified as the fare between such stations or places, for the same class of passage and in the same direction, in its tariff of fares on file with the Board of Transportation Commissioners.

Second—When it shall knowingly or willfully charge, demand, or receive from any person or persons, as the rate

of freight on goods or merchandise, any greater sum than is specified as the rates for the like quantity of goods or merchandise of the same class, between the same places and in the same direction, in its printed tariff of freights on file with said Commissioners.

Third—When it shall knowingly or willfully charge, collect, or receive from any person or persons, a greater amount of rate of toll or compensation than it shall at the same time charge, collect, or receive from any other persons for receiving, handling, storing, or delivering freight of the same class and like quantity, at the same place.

Fourth—When it shall knowingly or willfully charge, demand, or receive from any person or persons, any greater sum for passage or freight than from any other person or persons, at the same time, between the same places, in the same direction, for the same class of passage, or for the like quantity of goods of the same class.

Fifth—When it shall knowingly or willfully charge, demand, or receive as compensation for receiving, storing, handling, or delivering, or for transporting any lot of goods or merchandise, any greater sum than it shall, by or through any of its authorized agents, wherever situated, have agreed to charge for such service previously to the performance thereof.

SEC. 2. A railroad company shall be deemed guilty of unjust discrimination in the following cases: Unjust discrimination defined.

First—When it shall directly, knowingly, or willfully charge, demand, or receive from any person or persons, any less sum for passage or freight than from any other person or persons (except as in this Act hereinafter provided), at the same time, between the same places, and in the same direction, for the like class of passage, or for the like quantity of goods of the same class.

Second—When it shall, directly or indirectly, knowingly or willfully charge, demand, or receive from any person or persons, as compensation for receiving, handling, storing, or delivering any lot of goods or merchandise, any less sum than it shall charge, collect, or receive from any other person or persons, for the like service, to a like quantity of goods of the same class, at the same place.

SEC. 3. It shall be unlawful for any such railroad company to grant free passes for travel within this State, except to the following persons: Free passes.

First—Directors, officers, agents, and employes of the company, and their families.

Second—Officers and agents and railroad contractors of other railroads or telegraph companies.

Third—Destitute persons.

Fourth—The members of the Board of Transportation Commissioners of the State of California, their Secretary, attorney, and employes, while traveling in the discharge of their official duties.

Fifth—Public messengers, troops, and other persons, who are, under existing laws or any contract of such railroad company with this State, to be transported free of charge.

Railroad companies to keep record of free passes.

Every such railroad company shall keep a record of all free passes issued by it, except such as are issued by it to officers, agents, employes, and their families, and of the several classes thereof, and of the number of times each pass shall be used, and shall report the same to the Transportation Commissioners whenever required.

Penalty for extortion.

SEC. 4. If any such railroad company shall be guilty of extortion, as defined in this Act, it shall forfeit and pay to the person or persons aggrieved three times the amount of the damages sustained by him or them, together with the costs of suit, to be recovered in any Court of competent jurisdiction. It shall be the duty of the Board of Transportation Commissioners to prosecute all such suits for the plaintiff.

Penalty for discrimination.

SEC. 5. If any such railroad company shall be guilty of unjust discrimination, as defined in section two of this chapter, it shall forfeit and pay the sum of one thousand dollars for each offense, to be recovered on complaint of the Board of Transportation Commissioners, as in the last section provided. All forfeitures under this section shall be paid into the State treasury for the benefit of the public schools of the State.

Penalty for unlawful issue of passes.

SEC. 6. Any such railroad company that issues free passes to any person or persons other than those specified in section three of this chapter, or shall permit any person whatever to travel free upon their cars, except upon the exhibition of free passes issued, as provided in said section, shall forfeit and pay, for each offense, the sum of one hundred dollars, to be recovered and paid over, one-half to the State Treasurer, and the other half to the informer, as in the last section provided.

Prosecutions for violation.

SEC. 7. Whenever it shall come to the knowledge of the Board of Transportation Commissioners that the provisions of this Act are violated by any such railroad corporation in this State, it shall be their duty to investigate the charge; and whenever, in their judgment, the facts warrant prosecution, it shall be their duty to immediately cause suits to be commenced and prosecuted against any such corporation which shall have been guilty of such violation. Such suits may be brought in any Court of competent jurisdiction. All such suits shall be prosecuted by the District Attorney of the county where such action is brought.

Suits, how brought.

Stop-over tickets.

SEC. 8. Any person traveling upon any such railroad in this State, desiring to stop over at any station between the point of his departure and destination, shall, upon request, be entitled to receive from the conductor of the train, without further charge thereon, a stop-over ticket, which shall be good for the remainder of his journey, and may be used at any time within six months after it shall have been issued.

Act, how applied.

SEC. 9. The provisions of this Act shall be deemed applicable to such railroads as herein mentioned, whether operated by corporations, trustees, or owner or owners not incorporated.

SEC. 10. This Act shall take effect and be in force from and after its passage.

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656 2(73) "LET JUSTICE BE DONE."

THE DANGER AND WRONG OF EXISTING
LEGISLATION CONCERNING RAILWAYS;
A REVIEW OF ITS RESULTS.

GOVERNMENT OWNERSHIP OF RAILWAYS ADVOCATED, INSTEAD
OF THE PRESENT PUBLIC POLICY.

EXTRACTS FROM THE DIRECTORS' REPORT OF THE CHICAGO & ALTON
RAILROAD COMPANY.

CHICAGO:
THE RAILWAY AGE PUBLISHING COMPANY.

1890.

PUBLISHER'S PREFACE.

The increasing disposition on the part of the public to study the difficult problem of railway regulation, having in view legislation which shall be just to the railway interests as well as beneficial to the people who use the roads, is an encouraging feature of the times. The railway side of the question, which has received too little attention, is being of late presented occasionally by railway men, and the published discussions of different phases of the subject which have appeared from the pens of such representative men as Mr. C. F. Adams, Mr. Albert Fink, Mr. G. W. Blanchard, Mr. A. F. Walker and others have already done much to call public attention to the danger and wrong of treating the railway interests with injustice. It is to be hoped that many others who, from their experience and ability, are specially qualified to defend the railways before the tribunal of public intelligence and sense of justice will contribute to the literature of the country on this great and almost overwhelmingly important subject.

The remarks of Mr. T. B. Blackstone, president of the Chicago & Alton Railroad company, appended to the annual report of the directors of that company recently issued, have attracted much attention on account of their outspoken narration of the course of legislation against railways which now, in his opinion, threatens general disaster to those interests, and especially on account of the argument for government ownership of railways, which president Blackstone proposes as a choice of evils.

To meet the demand for this remarkable document, and in order to put within public reach another presentation of the railway question, THE RAILWAY AGE has obtained permission to reprint Mr. Blackstone's address to the stockholders of his company, believing that the facts and considerations which they suggest should have a wider circulation than the author intended for them.

THE RAILWAY AGE PUBLISHING COMPANY.

CHICAGO, March 1, 1890.

REMARKS OF PRESIDENT T. B. BLACKSTONE.

The policy of the State and National Governments in the matter of constructing and operating railroads, to which we have before called your attention, has been continued since the date of our last Annual Report substantially unchanged.

The principal agencies employed by the States for the last twenty years are Railroad Commissioners, who are required from time to time to fix reduced maximum rates, and speculating contractors, who have been, and are now, authorized to construct railroads where they are not needed, and where such roads can not possibly obtain traffic enough to support them. The object of the Government appears to be to divide traffic between the older lines and those more recently constructed, and by the resulting excessive competition to reduce rates for transportation.

The building of such railroads has caused the loss of many millions of dollars of capital invested by the shareholders of the older railroads, which were built when and where they were needed by the people, and not for speculative purposes.

The remarkable course which the Government has pursued in causing competing railroads to be constructed, and by imposing what appears to us to be, in some cases, unnecessary restrictions upon railway managers, can not be too often referred to, while it remains unchanged. We believe the people have pursued a mistaken policy, and that without much consideration as to the ultimate effect of their course they have been led on, step by step, until great injustice has been done, and is now being done, in their name. We believe, also, that the people are manly enough to consider what we may say in the friendly spirit in which it is offered, although the record to which we may call their attention is not in all respects such as we can refer to with pleasure.

It has been suggested that the object of the State Governments in causing competing railroads to be constructed, has been to secure *reasonable* rates for transportation. But a moment's consideration must convince any person that the building of new railroads can not be accounted for on that theory. No railroad company has ever claimed the right to charge unreasonable rates, and in all cases of difference as to what is a reasonable rate the Government would, in the trial of such questions before juries, have great advantage over a railroad company, by reason of the popular prejudice against such companies, without reversing the common rule of evidence, and requiring them, as is now done, to prove their innocence of the charges made against them. The Government can command all evidence that is accessible to the railroad company, and in that regard the

company does not have such advantage as it has sometimes been supposed to have. It can not be reasonably claimed that the object of the Government is to *reduce the actual cost* of transportation, for it is evident to all that the effect of competing lines (except under conditions which do not exist in this country) *is necessarily increased actual cost*.

For about two years the General Government has co-operated with the State Governments by the employment of Commissioners under the Act to Regulate Commerce.

One of the principal features of that Act is a prohibition of all agreements between railroad companies under which such companies may peaceably share the benefit of competitive traffic. That Congress did not intend, when passing the "Act to Regulate Commerce," to afford protection to railroad companies against excessive competition, or to give them the right to insist that all charges *shall be reasonable*, and thereby afford to them, as well as the people, the equal protection of the laws, is evident from a careful reading of the Act; but lest that may be doubted, we will call your attention to the following words used by Judge Cooley, speaking for the Inter-State Commerce Commission, in rendering a decision in the matter of the Chicago, Saint Paul & Kansas City Railroad Company, in which that company claimed that it should have the right to make such through rates as it might find necessary to meet competition, without being compelled to scale down its rates on local traffic so as to make such rates in fact unreasonably low.

(Commissioners' Report for 1888) to-wit:

"The provision in the first section of the Act to Regulate Commerce, 'that, 'all charges made for any service rendered, or to be rendered, in the 'transportation of passengers or property, or in connection therewith, 'or for the receiving, delivering, storage, or handling of such property, 'shall be reasonable and just, and every unjust and unreasonable charge 'for such service is prohibited, and declared to be unlawful,' does not 'render rates that are *unreasonably low* illegal in a sense that will authorize the Commission to prohibit their being made.

"The Commission has no power to order rates increased upon the 'ground that they are so low that persistence in making them would be 'ruinous.

"Congress, in the provision above recited regarding rates, *was legislating for the protection of the general public, and not for the protection of the 'carriers against the unreasonable action of their own officers, or against 'excessive competition.*"

Evidently those who rule over us intend to promote perpetual and ruinous strife between railroads; but what good results are expected to be produced thereby is beyond our comprehension.

Possibly some light may be thrown upon the railroad problem by referring to the salient features of the railroad history of this country, to which we invite your attention.

In 1837, Illinois in its corporate capacity undertook to construct about 1,300 miles of railroad, located so as to provide for railroad transportation in nearly every county in the State, except such counties as were to be provided with improved river and canal navigation. In the counties in which no such improvement was to be located, \$200,000 in cash was distributed by the State.

Work was commenced simultaneously on each of the proposed railroads at their termini, and at points where they were to cross navigable rivers. About the same time, the improvement of the navigation of the Kaskaskia, Illinois, Great and Little Wabash, and Rock rivers, and the construction of the Illinois and Michigan Canal was also commenced.

These several works were prosecuted until \$14,237,348 had been expended, when the credit of the State had become exhausted, and all such work was discontinued. No part of the railroad system had been fully completed. But the road between Springfield and the Illinois River was so nearly completed that for several years it was used for traffic by substituting mules in place of locomotives.

In 1826, the General Government donated about 300,000 acres of land to the State of Illinois to aid in the construction of the Illinois and Michigan Canal, and when the State became unable to borrow money on its credit without collateral security, it borrowed a sufficient sum to complete the canal by conveying these lands to trustees as security for the repayment of the loan. The river improvements were never completed.

Illinois, with a population of only 478,929 according to the State census of 1840, struggled for a long time under the burden of its heavy debt, on which it was unable, for several years, to pay the accruing interest. Its bonds were at one time worth in the market only 14 cents on the dollar, and many of its active politicians advocated repudiation. It is but just, however, to say that a majority of both political parties refused to entertain such suggestions.

After about ten years of bankruptcy, in which very little progress was made in the settlement and improvement of the State, with a well-founded conviction that the construction of railroads was absolutely necessary to restore its credit and to promote the prosperity of its inhabitants, and having learned by experience that such roads could not be constructed by it without the aid of private capital, it resolved to seek such aid.

The State then entered into contract (by special charter) with several railroad corporations for the construction of such railroads as were needed for its development.

Each railroad corporation undertook to provide the necessary capital and to construct a railroad between certain designated points. The consideration for which it undertook to build and operate the roads was the right to charge and collect such reasonable compensation for transporting persons and property over them as it might by its officers decide to be proper; subject, of course, to common-law rules, which prohibit unjust discrimination.

After such contracts had been made, and the work of constructing railroads had been commenced pursuant to their terms, the financial credit of the State rapidly improved. The value of its lands and other property increased with wonderful rapidity.

In all its agreements with contractors, the State had strictly kept faith with them, and when compelled to abandon the works we have referred to, it made settlements with them in full, to their entire satisfaction; but in doing so, it in some cases delivered to them its bonds instead of cash. Such deliveries were, however, made pursuant to amended contracts, which called for such payments, and, although then worth only 75 cents on the dollar, the bonds were, by reason of the reduced cost of the work, at that time a satisfactory compensation for it.

About 1854, when the construction of the railroads under the special charters referred to had, in some cases, been completed, and in others was still in progress, and thereby confidence in the development of the resources and credit of the State had become restored, the contractors whom the State had employed on its works, with whom it had years before made final settlement, presented claims based upon losses they had sustained after such settlements, by reason of having been under the necessity of selling the bonds which the State had delivered to them at a time when they were worth less on the market than when they had received them; or, in other words, they claimed that they had suffered loss by reason of the State having failed to maintain its credit as high as it was when they finally settled with it for the work they had done. No one pretended that the State was under any legal obligation to recognize such claims; but the claims were recognized, and many thousands of dollars were paid to the contractors, and to the heirs of such of them as were then dead.

In view of the course which the State has since pursued toward the corporations which constructed the older roads to which we have referred, we take pleasure in calling attention to the honorable conduct of the State of Illinois at that period. Whatever may be thought of its subsequent treatment of corporations which were instrumental in its resurrection from bankruptcy, we think there can be no doubt about its having entered into contracts with such corporations as yours, for example, in good faith, and that it did not entertain a "mental reservation" when it stated in your

charter that your company should have authority to "fix the rates of toll in the transportation of freight and passengers over its railroad." We think it may also be fairly inferred (although the charter is silent on that point) that it did not then contemplate causing the financial ruin of railroads by authorizing the construction of a greater number of competing roads than can be supported.

Although none of the members of our Board are learned in the law, we nevertheless desire to call your attention to some of the most important decisions by State and Federal Courts in railroad cases. We can not, within our limits, quote them in full, as we would prefer to do; we can only quote as much of them as, we trust, will fairly present their salient points touching the authority of railroad corporations to fix rates for transportation, and the authority of State Legislatures to fix such rates.

Such comment as we may make thereon, we trust will not be considered as a manifestation of a lack of proper respect for the learned and honorable judges by whom such decisions have been made. We speak from the stand-point of laymen, and the great majority of those we address are laymen. What we may say will doubtless be estimated at its actual value, if it has any value.

Whether we believe the laws have been fairly interpreted or not, is a matter of no consequence. Whether, in the light of the interpretation which has been given to them, the laws now in force are just or not, is a matter of great importance to you and many other railroad shareholders.

One of the earliest legislative acts on the subject of regulating charges for transportation on railroads was that of Illinois which was in force July 1, 1871. Under that act, proceedings were had, upon an information, in the nature of a *quo warranto*, filed in the Circuit Court in McLean County, by the Railroad Commissioners of the State. It was shown that the Chicago & Alton Railroad Company had charged 65 cents more per 1,000 feet for transporting lumber from Chicago to Lexington, 110 miles, than it had at the same time charged from Chicago to Bloomington, 126 miles. The place last named was a competing point; at Lexington there was no competition. This was held to be a violation of the law, and a judgment of ouster was entered.

An appeal was taken to the Supreme Court of the State, and the decision was reversed. That court held the law in some of its provisions to be unconstitutional, and advised the Legislature as to the amendments it should make, if the State still desired to practically make rates for railroad transportation without technically violating its agreements which grant that right to the railroad companies.

In the opinion of the Supreme Court in the case we have referred to, it is intimated that to forfeit franchises, thereby enforcing a penalty of

millions of dollars "upon an arbitrary and conclusive presumption of "guilt, to be drawn from an act that might be shown to be perfectly "innocent," if the railroad company had been permitted to explain the reason for it, was rather harsh treatment.

We refer to this law and this decision under it, for the purpose of showing the feeling of hostility toward railroads when the law was enacted in 1871. Such hostility had then been manifested for a short time only. For many years before, the right to fix rates within reasonable limits, in accordance with the terms of special charters, had been exercised by railroad corporations and had not been questioned.

Since about 1870, hostility to railroad corporations has been continued in the Western States without intermission.

The Legislature of Illinois, by an Act approved May 2, 1873, made it the duty of the Railroad Commissioners of this State to prepare schedules of reasonable rates for transportation over each railroad in the State, and to alter the same, from time to time, at their discretion. In accordance with the advice of the Supreme Court, which we have before referred to, this Act declares that rates so made by the Commissioners shall be held by all courts in the State to be "*prima facie* reasonable." This method of limiting rates, while technically permitting the corporations to make them, has since been generally resorted to in other States.

Soon after the States decided to reduce rates by the agency of Railroad Commissioners—practically disregarding chartered rights—it became necessary for them to procure affirmative action by the Supreme Court of the United States.

In an opinion by Mr. Justice Harlan of that Court, in *Ruggles vs. Illinois*, 108 U. S., 526, decided May 7, 1883, he refers to the decisions of the United States Court in the cases of *Munn vs. Illinois*, 94 U. S., 113; *Chicago, Burlington & Quincy Railroad Company vs. Iowa*, 94 U. S., 155; *Peik vs. Chicago & North-Western Railway Company*, 94 U. S., 164; and *Winona & St. Peter Railroad Company vs. Blake*, 94 U. S., 180; the four cases last referred to having been decided in October, 1876. He says, "these cases established, among others, these principles:

" 1st. That the charter of a railroad corporation is a contract within the " meaning of the contract clause of the federal constitution.

" 2d. That such corporation may be protected by its charter against " absolute legislative control in the matter of rates for the carriage of passengers and freight.

" 3d. That when the charter is granted subject to such regulations as " the Legislature from time to time may provide, or subject to the authority " of the Legislature to alter or repeal it, in either of such cases the Legisla-

ture has the same power over rates or tolls that it had when the charter was granted.

"4th. In the absence of statutory regulations upon the subject, it is necessarily implied from the occupation of a railroad corporation that it shall exact only reasonable compensation for carriage."

If these principles could be applied and enforced in accordance with the views expressed in the dissenting opinions, which have been from time to time filed by a minority of the justices of the Supreme Court of the United States, we believe there would be no cause for complaint, that the law so far as it relates to the operation of railroads is unjust.

But a majority of that Court have decided otherwise on points of great importance, and especially on the question of the power of States to revoke their grants in the matter of fixing rates, when that power had not been in the most positive terms reserved by constitution or statute when such charters were granted.

It will be noted that Mr. Justice Harlan says, that the Supreme Court of the United States has decided that a corporation *may* be protected by its charter against absolute control in the matter of rates. In view of the fact that in all railroad cases which have been tried before that Court such protection has been refused, and that in the case of *Peik vs. Chicago & North-Western Railway Company*, Mr. Chief Justice Waite in delivering the opinion of a majority of the Court said:

"Where property has been clothed with a public interest, the Legislature may fix a limit to that which shall in law be reasonable for its use. *This binds the courts as well as the people. If it has been improperly fixed, the Legislature, not the courts, must be applied to for the change.*" We see but little ground for hope that the power which it *may* exercise will ever be exercised in such cases.

In the case of *Ruggles vs. Illinois*, the Chicago, Burlington & Quincy Railroad Company claimed the right to fix rates under the provisions of its charter. In delivering the opinion of the Court, Mr. Chief Justice Waite (speaking for a majority of the Court) says: "The special provision on which the claim of a contract is predicated, is as follows: The Board of Directors shall have power to establish such rates of toll for the conveyance of persons or property upon the same, as they shall from time to time by their by-laws determine, and to levy and collect the same for the use of the company.

"This is the form in which the power to charge and collect compensation for the carriage of persons and property was granted by the amended charter. The rates must be fixed by the by-laws; and no by-law can be made that is at all repugnant to the laws of the State."

From this decision, it would therefore appear, that when a State

Legislature enacts a law fixing rates, it thereby practically abrogates its contracts embodied in special charters, in terms like those above quoted, and the company with which the State has made such a contract, can no longer exercise its discretion within reasonable limits in fixing rates; but must be governed absolutely by the rates the State Legislature has enacted. A State may undoubtedly fix rates for railroad transportation regardless of special charters, if it has reserved the right to do so.

In the case under consideration, and in other cases which the Supreme Court has decided in the same way, it has not been claimed that such right had been reserved when such charters were granted, except under the common law.

We do not presume to question the logic or great learning of Chief Justice Waite, or any other member of that Court. But the Chief Justice has said in the case of *Munn vs. Illinois*: "That the great office of statutes 'is to remedy defects in the common law as they are developed, and to 'adapt it to the changes of time and circumstances.'"

That Court has repeatedly held that under the common law, a railroad company would have authority to make a reasonable charge for transportation subject to legislative limitation, if its charter was silent as to such authority. If we are correctly informed, no one denies that such is the common law.

This leads us to inquire, in view of the decision by a majority of the learned justices, why have such provisions as the one quoted been incorporated in special charters?

We know of our own knowledge why the applicants for such charters in several cases petitioned in express terms for the right to make rates subject only to the common law as to reasonable limits, and not subject to future legislation; we know also of our own knowledge that this reason was plainly stated and freely discussed by members of the Legislature when special charters were granted in compliance with such petitions.

May it not be fairly presumed that the Legislature of Illinois, for example, had knowledge of the common law, and intended, by special statutes, to "remedy one of its defects," a "defect" which, if not remedied, would certainly have prevented the building of the older railroads in this State by private capital, when, without such capital, they could not have been built?

If we correctly understand the decisions of the Supreme Court of the United States, sections in charters which grant, in plain terms, the power to fix rates are meaningless. But it may be said that the provision for making rates "by their by-laws," in the case referred to, was fatally defective, and that the learned justices simply gave a legal interpretation to language unfortunately chosen. We will, therefore, refer to another

case, of which it can not be said the grant of the right to fix rates was in doubtful terms.

In the case of *Stone and others vs. Farmers' Loan & Trust Co.*, 116 U. S., 307, decided in October, 1885, it was claimed that the corporation had authority to charge for transportation, within reasonable limits, and that such authority was granted by its charter, in the following words: "The President and Directors be and they are hereby authorized to adopt and establish such a tariff of charges for the transportation of persons and property as they may think proper, and the same to alter and change at pleasure." Mr. Chief Justice Waite (speaking for a majority of the Court) delivered a very long opinion in this case, in which several points are decided; as to the right of the corporation to fix reasonable charges, the following words used by him appear to fairly express his opinion: "The right to fix reasonable charges has been granted, but the power of declaring what shall be deemed reasonable has not been surrendered. If there had been an intention of surrendering this power, it would have been easy to say so; not having said so, the conclusive presumption is, there was no such intention." This decision places the State in a position that reminds us of an agreement between the largest boy and the smallest, in a certain country school. The little fellow was to carry the big boy's books for him, until the end of the term, in consideration of a certain number of marbles, which the big boy gave him at the time the agreement was made. The books were carried daily, according to contract, until nearly the end of the term, when the big boy demanded the return of the marbles, with a very emphatic intimation that if they were not promptly delivered to him the little fellow would receive a thrashing. The small boy said: "That's not fair, you gave me the marbles, and I have carried your books for you." The reply was, "Yes, you have carried my books, and I will see that you continue to carry them until the end of the term, according to the agreement. I don't care if I did give you the marbles, I did not say *for keeps*."

Mr. Justice Field and Mr. Justice Harlan filed dissenting opinions, stated at considerable length, which apply in the cases of *Stone vs. Farmers' Loan & Trust Company*, and *Stone vs. Illinois Central Railroad Company*, these cases having been decided by the United States Supreme Court at the same term, October, 1885.

Referring to the Mississippi Statute of 1884, which provides for Commissioners, and invests them with the power of establishing rates. Mr. Justice Harlan says: "I am of the opinion that this statute impairs the obligation of the contract which the State made with these companies, in this, that it takes from each of them the power conferred by its charter of fixing and regulating rates for transportation within the limits of

“reasonableness, and confers upon a Commission, authority to establish, from time to time, such rates as will give a fair and just return on the value of such railroad, its appurtenances and equipments, and as experience and business operation may show to be just. In short, the companies are placed by the statute in the same condition as they would occupy if their charter had not conferred upon them the power to fix and regulate rates for transportation. The whole subject of rates is thus remitted to the judgment of Commissioners who have no pecuniary interest whatever in the management of these vast properties, and who, if they had any such interest, would be disqualified under the statute from serving; and who are required to fix rates according to the value of the property without any reference to what it originally cost, or what it has cost to maintain it in fit condition for public use.

“It is hardly necessary to discuss the proposition that the right to fix and regulate rates for transportation within the limits of reasonableness, was and is one of great practical value to those companies; for the rates so fixed would have governed the conduct of parties interested in them unless it was made to appear, affirmatively, and in some legal mode that they were unreasonable. * * * * * Does anyone believe that private capitalists would have supplied the money necessary to establish and maintain these lines of inter-state communication had they supposed that the States through which the roads were extended reserved the right, by Commissioners, to take charge of the whole matter of rates and abrogate at their pleasure such tariffs of charges as might be established by the companies under the power expressly conferred, of fixing and regulating rates? Would they have risked the immense sums invested in these enterprises had the charter of the companies contained a provision making rates to depend, not on the capabilities, wants, and interests of the territory to be supplied with railroad service, or on the amount expended in constructing and maintaining these roads, but on their ‘value’ as estimated by Commissioners, and on such basis as the latter, from time to time, might deem to be justified by experience and business operations? Their value on what basis, or at what period of their existence? When they were constructed? Or what they would bring at a sale under a decree of the Court? In the place of charter provisions, under which rates fixed by the companies would be deemed legal, until the contrary was made to appear, the statute substitutes a system under which rates established by a Commission, and by it increased or diminished, from time to time, must be observed by the companies, unless it is made to appear, affirmatively, that such rates are unjust. Officers and agents of the companies acting in conformity with express provisions of their charters, being made liable to heavy penalties, unless they prove

“that the Commission have established an ‘unjust’ tariff of charges. * *
 “* * If I do not misapprehend the effect of the opinion it means to declare
 “that when the tariff of charges fixed by the Commissioners does not cer-
 “tainly work destruction or confiscation of these properties, or amount in
 “law to taking them for public use, without just compensation, the charges
 “so established must be accepted by the courts as well as by the com-
 “panies, as reasonable and therefore not to be treated as ‘unjust’ in any
 “prosecution under the act for disregarding such tariffs. I can not other-
 “wise interpret the observation that the Legislature may establish a maxi-
 “mum, and a charge in excess of which must be deemed by the courts and
 “the parties to be unreasonable.

“In expressing the foregoing views I would not be understood as
 “denying the power of the State to establish a railroad commission, or to
 “enforce regulations not inconsistent with the essential charter rights of
 “the companies, in reference to the general conduct of their merely local
 “business.

“My only purpose is to express the conviction that each of these
 “companies has a contract with the State whereby it is exempted from
 “absolute legislative control as to rates, and under which it may, through
 “its directors, from time to time, within the limit of reasonableness, estab-
 “lish such rates of toll for the transportation of persons and property as it
 “deems proper, such rates to be respected by the Courts and by the public,
 “unless they are shown affirmatively to be unreasonable.”

Mr. Justice Field says: “I concur with Mr. Justice Harlan that the
 “act of Mississippi impairs the obligation of the contract contained in the
 “charter originally granted to the Mobile & Ohio Railroad Company by
 “Alabama and soon afterward adopted by Mississippi.”

He then continues, and gives a very clear and interesting statement
 in support of his dissenting opinion. In all similar cases he has expressed
 the opinion that such contracts are lawful, and Mr. Justice Strong, in all
 such cases which were decided while he was a member of that Court, con-
 curred with Mr. Justice Field in that opinion.

Whether the concurrent opinion of the majority or that of the mi-
 nority of the Justices of the Supreme Court is correct appears to depend
 upon whether a certain principle of common law should, or should not, be
 applied to railroad corporations. Mr. Justice Waite says in *Munn vs.*
Illinois: “We find that when private property is affected with a public
 “interest, it ceases to be *juris privata* only. This was said by Lord Chief
 “Justice Hale more than two hundred years ago, * * * and
 “has been accepted, without objection, as an essential element of the
 “law of property ever since. Property does become clothed with a public
 “interest when used in a manner to make it of public consequence, and

"affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created. *He may withdraw his grant by discontinuing the use;* but "so long as he maintains the use he must submit to the control."

This principle of common law is referred to, in one way or another, in all the railroad cases subsequently decided by the Supreme Court of the United States which involve the question under consideration, and is evidently the basis of such decisions.

In a dissenting opinion in the case of *Munn vs. Illinois* (in which Mr. Justice Strong concurs), Mr. Justice Field quotes from Story, in *Wilkeson vs. Leland*, 2 Pet. 657, as follows: "That government can scarcely be deemed to be free where the rights of property are left solely dependent upon the will of a legislative body without any restraint." * * *

Mr. Justice Field says: "I deny the power of any legislature under our Government to fix the price one shall receive for his property of any kind. If the power can be exercised as to one article, it may be as to all articles, and the prices of everything, from a calico gown to a city mansion, may be the subject of legislative direction." In the dissenting opinions to which we have referred the learned Justices state many reasons why, in their judgment, the common law rule stated has been improperly applied.

They, however, do not refer to one fact which, in our judgment, is worthy of consideration. It is well known that prior to the building of railroads, common carriers on land employed in their vocation nothing more expensive than horses and wagons. It will be noted, as stated by Mr. Justice Waite, that the remedy such persons had—in case the price fixed pursuant to law for carriage was not satisfactory to them—was to "withdraw their grant," or, in other words, their horses and wagons, from the public service.

That could be done with little loss to them, for the reason that horses and wagons could be used for other purposes. He intimates that corporations who have expended millions of dollars in the construction of railroads now have a similar remedy, that is to say, they may withdraw their railroads from public use. Does any one suppose that the public would permit that to be done? If such permission was given, what use could the corporation make of its expensive embankments, excavations, bridges, and other parts of a railroad?

The learned Chief Justice makes another statement from which we think an inference may be reasonably drawn, which is in our opinion worthy of consideration.

He says the Act of Parliament regulating rates of charges was enacted in 1691, and repealed in 1827, and has not since been re-enacted.

The Stockton & Darlington Railroad, the first railroad constructed in England, was opened for traffic September 27th, 1825. Other railroads were constructed in England very soon thereafter, and since 1827 railroads have continued to take the place of horses and wagons in the transportation of persons and property by common carriers.

May it not be the fact that in England it was apparent that a law which could be complied with without great sacrifice by a common carrier using a wagon on a common road, could not reasonably be applied to the owner of a railroad, and for that reason the Act of Parliament referred to was repealed? This view of the matter is confirmed by English railroad acts, to which reference is hereinafter made.

In all judicial contests between the States and railroad corporations on the subject of the right claimed under special charters to make rates, the States have been victorious. The Supreme Court of the United States has decided in effect that a grant of the right to make reasonable rates, although clearly expressed and unlimited by its terms, must be construed as continuing subject to the pleasure of the State, unless the State has at the time of making the grant expressly declared that it will not revoke it.

A law has been enacted by State legislatures under which, in all cases involving the question of reasonableness of rates (if such rates exceed such as may have been made by State Commissioners), a railroad manager enters court in the position of an indicted criminal—but the parallel extends no further. The criminal who has stolen sheep must be held to be innocent until it has been proven beyond a doubt that he is guilty.

The Railroad Manager who may have honestly differed with Railroad Commissioners in estimating in a certain case what is a reasonable rate, must be held to be guilty unless he can prove beyond a doubt that the Commissioners have made a schedule of rates too low. The thief must be tried before an impartial jury. But the reversal of the common rule of evidence, together with the universal prejudice against Railroad Corporations, predetermines a verdict against the Railroad Manager in all trials of such cases before juries in the West.

Is not the holding of one class of persons to be guilty under conditions in which persons of all other classes are held to be innocent a "denial of the equal protection of the laws," and therefore a clear violation of the spirit, if not of the letter, of the Federal Constitution?

Is not such an unjust discrimination between persons repugnant to every honest and fair-minded man's convictions of right and justice?

The decisions of Federal and State Courts to which we have called your attention, and others of like character, suggest interesting questions.

One of the fundamental principles on which our National and State Governments are based, is expressed in the Constitution of one of the older States, by the following words, to-wit: "In the Government of this Commonwealth the Legislative Department shall never exercise the Executive and Judicial powers, or either of them; the Executive shall never exercise the Legislative and Judicial powers, or either of them; the Judicial shall never exercise the Legislative and Executive powers, or either of them; to the end it may be a Government of laws and not of men."

If we are correctly informed, substantially similar provisions may be found in the Constitution of the United States, and also in the several State Constitutions.

Should not the Common Law be held to be subject to such Constitutional provisions? Whether a certain charge for transportation is reasonable or unreasonable, would seem to us to be a Judicial question.

Mr. Justice Field has said, "In the absence of a contract for property or service, the law allows only a reasonable price or compensation; but what is a reasonable price in any case will depend upon a variety of considerations and is not a matter for Legislative determination."

In *Chicago, Burlington and Quincy vs. Iowa*, Mr. Chief Justice Waite (speaking for a majority of the Court) says: "The Burlington & Missouri Railroad Company (the benefit of whose charter the C., B. & Q. now claims) was organized under the General Law of Iowa, with power to contract in reference to its business the same as private individuals.
" * * * * * This, in substance, is its charter, and to that extent it is protected as by a contract. In the absence of any Legislative regulation, the Courts must decide for it, as they do for private persons when controversies arise, what is reasonable."

If this question is a Judicial one, as Mr. Justice Field says it is, and as from its nature it would appear to be, by what authority can it be determined by Federal or State Legislation?

If it is a Legislative question, by what authority can the Federal or State Judiciary decide it?

In view of the Constitutional provisions to which we have referred, by what authority can both the Legislative and Judicial Departments of the Government claim the right to determine such questions?

Prior to 1868, nine hundred and five railroad corporations had constructed an aggregate of 42,255 miles of railroad in the United States. On December 31, 1888, the number of such corporations had increased to about 2,340, and the number of miles of railroad had increased to 156,081.

The course pursued by the Government (especially during the last

few years) has caused many of the shorter lines of railroad to be merged into large systems, for the purpose of avoiding, as far as may be lawful, the evil effects of hostile legislation, and to promote economy in operating the roads. To prevent such action on the part of railroad owners, laws have, in many of the Western States, been enacted, prohibiting the consolidation of competing lines. The merging of railways into large systems has reduced the number of corporations operating railroads to about 650. Nearly 1,700 railroads have passed from the control of those who constructed them to other corporations, by whom such railroads are now operated.

The following table shows the aggregate miles of railroads in five grand divisions in 1868 and in 1888, the increased number of miles in each division, and also the percentage of increased mileage during this period of twenty years:

	1868—Miles.	1888—Miles.	Increase in Miles in 20 Years.	Per cent. of increased Miles in 20 Years.
New England Group..	4,019	6,654	2,635	65½ per cent.
Middle States Group..	9,765	20,600	10,835	110 ³⁶ / ₁₀₀ “ “
Western States Group.	16,889	83,001	66,112	391 ⁴⁵ / ₁₀₀ “ “
Southern States Group	10,693	35,764	25,071	234 ⁴⁶ / ₁₀₀ “ “
Pacific Group	889	10,062	9,173	1,031 ⁸³ / ₁₀₀ “ “
Total	42,255	156,081	113,826	269 ³⁸ / ₁₀₀ per cent.

Each railroad corporation, before commencing the construction of its railroad, entered into a contract with one or more of the State Governments, or with the Federal Government. Such contracts were of two classes. In one class the Government agreed, *without reservation*, that, as a consideration for constructing and operating a railroad between certain designated points, and for providing the necessary money to pay the cost of the same, the railroad corporation should have the right, *during its corporate existence*, to establish, from time to time, and collect reasonable rates for transportation over the railroad which was the subject of the contract. All contracts of this class were made pursuant to special legislative acts, commonly called special charters; and it was not then supposed that an express declaration by the Government, that it would in good faith comply with its agreement, was necessary, nor was it then supposed that the Government would resort to contracts for building competing lines for the purpose of reducing rates below such as were considered reasonable at the time such contracts were made.

The other class of contracts to which we have referred were made subject to the reserved right of the State to fix a limit to charges for transportation at its pleasure.

The practical effect of the Supreme Court decisions to which we have referred is to place all railroad corporations at the mercy of Legislatures,

or, as one of the Justices of the Supreme Court of the United States has said, "subject to legislative caprice."

Excluding street railroads, and other railroads of less than ten miles in length which are not operated as part of a system, we find that only eighty-three of the 650 corporations operating railroads were able in 1888 to pay dividends to their shareholders.

9 corporations, operating	1,192 miles,	paid 10 per cent. dividends.
7 corporations, operating	2,247 miles,	paid 8 per cent. dividends.
14 corporations, operating	8,141 miles,	paid 7 per cent. dividends.
24 corporations, operating	13,644 miles,	paid 6 per cent. dividends.
10 corporations, operating	6,973 miles,	paid 5 per cent. dividends.

The remaining nineteen of the railroads which earned dividends paid from 1 to 4 per cent. The amount of rent paid by the operating companies to the corporations owning the leased lines enabled about 200 such corporations to pay small dividends to their shareholders. It will be noted that only about one-eighth of the operating railroad companies were able to pay dividends, and about one-fourth of these paid less than 4 per cent.

The total amount paid to shareholders of all railroads in the United States in 1888, is equal to $0\frac{6.2}{100}$ of 1 per cent.

In 1887 the amount paid to shareholders was equal to $0\frac{7.1}{100}$ of 1 per cent. *With an increase of traffic in 1888 of more than 14 per cent., we find the divisible profits reduced $12\frac{1}{2}$ per cent.*

The average percentage of dividends paid on railroads in New England, in 1888, was $4\frac{5.6}{100}$ per cent; in the Northwestern States, $0\frac{5.2}{100}$ per cent. This statement of average dividends shows the *difference between the results produced by Eastern and by Western State legislation relative to railroads.*

The average rate per ton per mile charged for freight on the Chicago & North-Western, the Chicago, Milwaukee & St. Paul, the Chicago, Rock Island & Pacific, the Chicago, Burlington & Quincy, the Illinois Central, and the Chicago & Alton Railroads was, in 1870, $2\frac{4.3}{100}$ cents; on the same roads in 1888, $0\frac{8.5}{100}$ cents.

The average rate per ton per mile charged for freight on the Boston & Albany, New York Central, Michigan Central, Lake Shore, New York, Lake Erie & Western, Pennsylvania, and Pittsburgh, Fort Wayne & Chicago Railroads, in 1870, was $1\frac{6}{100}$ cents; the average rate charged by the same lines in 1888 was $0\frac{7}{100}$ of 1 cent.

The average rate per bushel for transporting wheat from Chicago to New York, all rail, was, in 1870, 33 cents; in 1888, 14 cents. The editor of *Poor's Manual*, commenting on these statements, says: "The thirteen roads referred to are typical of the entire railroad system. Since 1865, the reduction per ton per mile has been, on the lines named, east of Chi-

"cago, 79 per cent., and since 1868, on the lines named, west of Chicago the reduction in rates has been 73 per cent. Of the total cost of operating a railroad, fully 80 per cent. is paid to labor in one way or another. Expenses of this nature can not be materially reduced; in fact, the tendency is constantly toward an increase. The railroads named *received in 1888, \$20 for services for which they received \$100 in 1865.*" He adds: "What other business can show a corresponding reduction in 'returns!'"

In Illinois there are sixty-two railroads; five of them lead directly east from Chicago, and are operated in the State a few miles only. Of the remaining fifty-seven, nine only paid dividends in 1888, and one of these—which extends out of the State—failed to earn fixed charges on its line in Illinois. The dividends paid in Illinois were 8 per cent. on one line, 7 per cent. on three lines, 6 per cent. on Common Stock and 7 per cent. on Preferred Stock on one line, 5 per cent. on two lines, $2\frac{1}{2}$ per cent. on Common Stock and $3\frac{1}{2}$ per cent. on Preferred Stock on one line, and $1\frac{1}{4}$ per cent. on Preferred Stock on one line. *Forty-nine of the fifty-seven Illinois lines failed to earn any dividends in 1888. On thirty of them the earnings were \$2,275,104 less than was required to pay fixed charges, and on six of them the earnings were \$81,894 less than the amount expended to pay operating expenses.*

The editor of *Poor's Manual*, published in 1889, by an elaborate estimate, shows that the railroad companies in this country employed, directly and indirectly, in constructing, operating, and maintaining railroads, a total of 2,050,000 men, representing families numbering in the aggregate 12,250,000 persons, and that the daily payments by railroad companies, directly and indirectly, to these persons, amount to nearly \$3,000,000.

Taking the share list of the New York Central Railroad as the basis of his estimate, he shows that there are more than 1,000,000 railroad shareholders in the United States.

We think, after a careful examination of such lists of shareholders as we have had access to, the whole number is much greater; and that there are at least 450,000 women and trustees, for minor heirs, holding railroad shares in the United States.

In view of the very great destruction of railroad values which the Government has caused by the employment of speculators and others, in the construction of railroads, it is interesting to estimate, as accurately as possible, what the actual annual loss of capital invested in railroads is, and what proportion of it is suffered by women and children. For that purpose we base an estimate upon statistics found in "*Poor's Manual*," which we have good reason to believe are accurate.

The total amount of divisible earnings derived from the operation of all the railroads in the United States in 1883 (120,552 miles) is \$102,052,548. The total divisible earnings on the same miles of railroad, excluding all extension of lines, and all new lines constructed between 1883 and 1888, is found to be in the last named year about \$62,589,572, which shows that the amount of available net earnings in 1888, compared with 1883, was reduced nearly 40 per cent., or \$39,462,976. This amount capitalized at the rate of 4 per cent. represents \$986,574,400, which is equal to an average reduction in value of \$197,314,880 for each of the five years referred to. An estimate made in the same way based on the railroads operated in 1887 (147,999 miles) shows, that during the year 1888, the divisible earnings, compared with those of 1887, were reduced \$12,373,576, or about \$1,000,000 each month. Capitalizing the loss in divisible earnings for the year 1888 at 4 per cent., we find the value of all the railroads which had been constructed in the United States prior to January 1st, 1888, was reduced \$309,339,339 during the year 1888, or *nearly one million dollars per day* for six days in each week.

The total amount of traffic in the year last named exceeded that of 1887; in transporting passengers within a small fraction of 6 per cent., and in transporting freight $14\frac{4}{10}$ per cent. The reduced earnings from increased traffic in that year are due wholly to enforced competition by the Government, as has been the case for many years.

Assuming that in 1888 the average number of shares owned by each woman and each child owning railroad shares was one-half the average number held by other persons—which is approximately correct—the reduction in value of the shares held by or for women and children was, for that year, \$76,601,361, or \$170.22 for each woman and each child, which is about one-eighth of the amount owned by women and children.

We have assumed 4 per cent. as the rate of capitalization, for the reason that the market price of shares is now, and for several years has been, based on that rate (substantially), in cases like the Boston & Albany, for example, in which persons with money to invest have full faith in the State Government which has jurisdiction over it. No greater dividends than 8 per cent. have been paid for years on the shares of that Company, and they have for a long time sold at more than \$200 per share.

In estimating the reduced value of railroad property, as above stated, no account is taken of the cost of the railroads when constructed, or cost to their present holders. The estimate is, therefore, not effected by the question as to whether the roads have or have not cost too much.

The estimate of reduced value takes no account of capital stock, and, therefore, no question as to “watered stock” is involved. The result of the calculation would be the same, whether such capital be \$1,000 or \$100,000

per mile. The computation is based upon the assumption that the present value of a railroad in operation depends upon its net earnings, if it has any net earnings.

If we assume that the course which the State and Federal Governments are now pursuing is to be continued, it is easy to demonstrate, mathematically, that in less than ten years there will be very few railroad shares in the United States that will have any value.

The employment of Railroad Commissioners to regulate railroad management, and reduce charges for transportation, has been continued since 1871. The policy of enforced competition by parallel and competing railroads, authorized and promoted by the Government, was adopted by the Western States very soon after the appointment of the first Board of Railroad Commissioners, and is still continued.

For the last fifteen years especially, the policy of the States last referred to has caused universal dissatisfaction among the people, and unparalleled destruction of railroad property.

Many failures in railway enterprises occurred in the West while the States kept faith with railway companies. Such failures were due to the fact that many of the railroads were built before the development of the country had proceeded far enough to provide sufficient traffic to support them. For such failures, the State Governments are, of course, not responsible. This class of failures, with few exceptions, occurred prior to 1870. About that date, the Western States adopted their present policy, which appears to be exercised with complete disregard of the spirit of their prior contracts with Railroad Corporations. By the kindness of the editor of the *Railway Age*, we have been permitted to take from his files statistics, from which we have compiled the following statement of the number of railroads sold under foreclosure during the last fourteen years, together with the Aggregate Mileage, Bonded Debt, and Capital Stock of such roads:

DATE.	Total number of roads.	Total number of miles.	Total Amount Bond and Debt.	Total Capital Stock.
1876	30	4,933	\$145,834,292	\$122,362,241
1877	54	3,875	119,938,700	79,045,700
1878	48	3,902	160,014,500	151,616,700
1879	65	4,909	162,822,780	80,466,038
1880	31	3,775	166,568,000	97,313,700
1881	29	2,617	51,277,661	76,644,936
1882	16	867	26,160,500	39,265,600
1883	18	1,354	28,505,000	18,825,000
1884	15	710	9,591,000	13,913,000
1885	22	3,156	141,590,000	136,904,000
1886	45	7,687	170,140,500	203,969,200
1887	31	5,478	164,522,000	163,659,000
1888	19	1,596	36,806,400	27,748,600
1889	25	2,930	84,864,000	52,951,000
Total	448	47,789	\$1,468,635,333	\$1,264,684,715

We have been unable to obtain statistics relating to such sales made prior to 1876, but we know the number was very great.

It will be seen from the above tabular statement that, in round numbers, one thousand two hundred and sixty-five millions of capital stock was, during the period of fourteen years—to use a common expression—“wiped out;” and to this immense sum should be added many millions of floating debt, of which we have no means of even estimating the amount.

It will be seen that an average of 3,413 miles of railroad was sold annually, and in many cases the same roads have been sold two or three times. Before being sold they were all held and operated by Receivers, for terms of from one to ten years, the average term during which each road was so operated being about five years.

It therefore appears that an average of 160 railroads were each year in the hands of Receivers, and that the total length of such railroads, each year, so operated, exceeded an average of 17,000 miles.

The common practice of Receivers in such cases is to reduce rates of transportation, so as to attract the largest possible amount of traffic from competing lines, regardless of net earnings. This causes great loss to corporations that are trying to earn at least enough to pay operating expenses, and often reduces them to bankruptcy.

The course pursued by Receivers in operating railroads causes great dissatisfaction among the patrons of other lines, who generally fail to understand why a Receiver can make lower rates than other Railroad Managers. The latter, in their efforts to obtain money to pay current expenses, and thereby keep the companies they represent from bankruptcy, often reduce rates below actual cost, which reduced rates the public will not permit afterward, under different conditions, to be advanced. The unanswerable argument in the minds of the public being, “you would not have made such and such rates if they had not been profitable, and to advance them is extortion.”

During the term in which a railroad is held by a receiver, it is *practically confiscated*, and is operated in the interest of the public only. The interest of the shareholders is of course “wiped out.”

The bondholders during that period, as a rule, receive no interest on their bonds, and when the railroad is sold there is commonly a large amount of receiver's certificates outstanding, which represent the money the receiver has borrowed to enable him to pay operating expenses and make necessary repairs on the road. The debts he has created are a first lien on the property, and must be first paid from the proceeds of the sale. If the bondholders become the purchasers, they must put their hands in their pockets and pay the debt which the receiver has created; they not only lose the interest on their bonds while the receiver has possession of

the road, but at the end of the receiver's term of management they must pay a new debt in order to avail themselves of the security which was given for the old one.

The average number of miles of railroad operated in the United States during the last fourteen years is about 114,000, and, as we see from the above statistics, 15 per cent. of that mileage has been operated by receivers, wholly in the interest of the public, and in most cases partly at the expense of the bondholders.

The operation of railroads by receivers is one of the inevitable consequences of the policy which has been pursued by the State Governments in the West for the last twenty years. In several cases within the last few years it has been found difficult to sell railroads, at the termination of their management by receivers, for a price large enough to pay the debt which the receiver has created.

We are told that "competition is the life of trade," and that competition between railroads is one of the objects of the Government in multiplying them. That voluntary, or free, competition, as it is exercised by all classes except railroad corporations, promotes the true interest of the public no one will deny. Such competition, in its final analysis, leads to the "survival of the fittest," and the public are therefore served mainly by those best qualified, and at competitive prices. Those who prove unfit to cope with others are driven from the field, or, if being fit to compete, the number of competitors is found too great for profitable competition, they may go elsewhere or pursue a different occupation. If they become paupers, they are supported while they live at the expense of the public.

Like conditions do not exist in railroad competition. The railroad company can not be permitted to compete without restrictions, as others are permitted to do. It can not be permitted to limit its charges by the law of supply and demand only, as all others may do. It can not be permitted to recoup losses incurred in a dull time when afterward there is an active demand for what it has to sell, as the merchant and others may do.

Under favorable conditions, competition between railroads tends to promote the public interest, and should be encouraged; but *forced competition* leads to evils without number, which has been abundantly demonstrated in this country. When the competing railway is losing money, it can not be removed to another field, nor can it be put to other use.

When it is not operated at a profit, it can not be expected that it will be kept in proper condition for service, and it soon becomes a pauper; but, unlike other paupers, it forces its competitors to support it, and it never dies.

The Railroad Commissioners of one Western State frequently compete with those of another in reducing rates, with apparently very little regard for the destructive consequences of their acts.

Such are some of the features of railroad competition in this country.

The natural and necessary legal disabilities and limitations under which all railway companies labor, are recognized in all other countries, and such roads are protected against excessive competition by refusal to permit the construction of a greater number of railroads than are actually required to provide necessary facilities for traffic. Such protection is given by a division of territory between the several roads in some countries. In others, by what in this country is called "pooling." In all countries except ours, protection against excessive competition is given by or under the authority of the Government in some way.

With the existing railroad situation in the United States, there is in railroad competition scarcely a single element in common with competition between those who are engaged in other business enterprises.

It seems as unreasonable to expect that the people will derive any benefit from competition between railroads under existing circumstances, *except at the cost of capital invested in them*, as it would be to expect a good crop of wheat by sowing tares. The necessary conditions do not exist.

In all beneficial competition, the desire to get gain or profit is the element in human nature which induces persons to render good service or sell commodities at a low price.

With seven-eighths of all the railroads in the United States to-day, the question is not how to make a profit, but how to maintain their existence, and keep out of the hands of the court.

In view of the unjust treatment of railroad corporations by our Government, and the fact that such treatment is said to be warranted by the principles of the common law, it may be interesting to compare the course pursued by the Government of this country with that pursued relative to such matters in the country from which we derived the common law, where its principles are supposed to be well understood.

It must not be inferred from the statement made by Mr. Chief Justice Waite, that the Act of Parliament regulating rates of charges by common carriers, which was passed in 1691 and repealed in 1827 (and, as he states, has not since been re-enacted), has left common carriers, by railway, in England, subject to common law regulation only since 1827. Many Acts of Parliament relating to charges for railway transportation have since been passed, and as, according to the decisions of the Supreme Court of the United States, our State Legislatures have substantially the same unlimited power over railroad corporations that the Parliament of England has, it is interesting to see how carefully the English Government has guarded against the unjust exercise of its power over railways, and to compare its action in that regard with the Acts of our Government. An

examination of the many acts and orders relating to railroad companies and the notes of cases decided thereon, in England, since 1825, shows, among others, the following facts: From 1825 to 1840, about one-third of the Acts of Parliament which provide for the construction of railroads and for fixing rates for transportation thereon, empower the companies to make such charges as they may from time to time determine upon. In about one-fourth of the acts during that period, maximum rates were fixed, for passengers only, generally $3\frac{1}{2}$ pence—or 7 cents—per mile.

The first act which fixes maximum rates for goods was that of the Liverpool & Manchester, passed in 1826. It provides that no more than 8 shillings per ton shall be charged for Classes 1 and 2, for the entire length of the line, and for any shorter distance a ratable proportion. These charges do not include compensation for the use of locomotives or cars. The act provides that for "persons, cattle and other animals," the company shall charge at its discretion.

The Southeastern Railway Act may be referred to as an example of another class; it obtained its act in 1836. The act was framed upon the supposition that private persons might send their own engines and cars over the line, and in such cases tolls were authorized of 2 cents, 4 cents, and 6 cents per mile for the several classes of goods, and the act authorizes the company, in case it uses its own engines and cars, to charge "such sums of money for the use of engines as the said company shall think proper," and "to make such reasonable charge for conveyance, in addition to the tolls named, as they may from time to time determine upon."

In 1838, Parliament passed an Act to provide for the conveyance of the mails by railways. That Act provides, among other things, that in case the Postmaster-General is unable to agree with any railroad company on the amount of compensation to be paid for transporting the mails, each party shall select an arbitrator, and in case the two arbitrators shall be unable to agree, they shall appoint an umpire, and the compensation fixed by the arbitrators or the umpire, as the case may be, shall be "binding and conclusive on the parties, their successors and assigns, for the term of three years." At the end of each succeeding period of three years, in default of an agreement upon the amount of compensation to be paid, any "*railway company* who may consider themselves aggrieved by the terms of remuneration fixed by such contract or award" may demand a new arbitration. There is no provision in the Act which gives the Postmaster-General the right to demand any arbitration except the one first provided for. He may, however, order the discontinuance of the service at any time.

"The Cheap Trains Act, 1844," provides: "That if, after twenty-one

"years from the passing of the Act for the construction of *any future railway*, the clear annual divisible profits shall exceed 10 per cent. on "the paid-up capital stock of such railway, the Treasury may revise the "scale of tolls, and fix a new scale; provided, always, that no such revised "scale shall take effect unless accompanied by a guarantee, to subsist as "long as such revised scale of tolls, fares, and charges shall be in force, "that the said divisible profits, in case of any deficiency therein, shall be "annually made good to the said rate of £10 for every £100 of such "capital stock; provided, also, that such revised scale shall not be again "revised, or such guarantee withdrawn, otherwise than with the consent of "the company, for the further period of twenty-one years."

The Act last referred to provides that the Government may, at its option, purchase railroads built subsequent to its passage, at any time after twenty-one years from the date of their completion, "upon payment of a "sum equal to twenty-five years purchase of the said annual divisible "profits, estimated on the average rate of profits for the three then next "preceding years; provided, that if the average rate of profits for the said "three years shall be less than the rate of ten pounds in the hundred, it "shall be lawful for the company, if they shall be of the opinion that the "said rate of twenty-five years purchase of the said average profits is an "inadequate rate of purchase of said railway, reference being had to the "prospects thereof, to require that it shall be left to arbitrators, in case of "difference, to determine what (if any) additional amount of purchase- "money shall be paid to said company; provided, also, that such option of "purchase shall not be exercised except with the consent of the company, "while any such revised scale of tolls, fares, and charges shall be in "force."

Section 3 of the Act provides that the option of revision of rates or purchase by the Government shall not be applied to any railroad constructed, or authorized to be constructed, before the passage of that Act. Section 6 provides that, for the purpose of securing "to the poorer class of "travelers the means of traveling by railway at moderate fares, and in car- "riages in which they may be protected from the weather," on all railroads thereafter authorized to be constructed, at least one train per day shall be run each way over the line on which the fares shall not exceed two cents per mile. The Act also provides that on all roads thereafter constructed military officers shall be carried, while on duty, at a rate not exceeding four cents per mile in first-class cars, and that soldiers, with their wives and children, shall be carried, in *cars provided with seats*, at two cents per mile.

"The Railway Construction Facilities Act, 1864," provides that *on railroads thereafter constructed* it shall be lawful to charge for passengers, 1st class, 6 cents; 2d class, 4 cents, and 3d class, $2\frac{1}{2}$ cents per mile.

For each animal, per mile, according to size and class, 8 cents, 6 cents, and 3 cents.

For goods, per ton per mile, of different classes, 8 cents, 6 cents, 4 cents, and 3 cents.

To these prices reasonable terminal charges are to be added. For special services by contract, higher rates were authorized. In 1871, an Act was passed authorizing the Secretary of State, in cases of emergency, to take possession of any railroad in the United Kingdom for military purposes. In all such cases full compensation is to be made for any loss or injury the company may sustain, and in case of *disagreement* as to the amount, it is to be *settled by arbitration*.

"The Regulation of Railways Act, 1873," provides for the appointing of three Commissioners of whom one must be a lawyer, and one of experience in railway business. The principal duties of the Commissioners appointed under the Act of 1873 were to settle questions of difference between railroads arising relative to through rates, and, to some extent, the jurisdiction of the Court of Common Pleas was conferred upon them. The Act of 1873 also provides that any difference arising between the Postmaster-General and a railway company, as to the amount of compensation to be paid for carrying the mails, may be, at the option of the railway company, *settled by arbitration* in the manner we have before referred to, or by the *Commissioners acting as arbitrators*.

The latest Act relating to railway transportation in England is the "Railway Traffic Act, 1888." By this Act it is made the duty of each railway company, within six months after the passage of the Act, to submit to the Board of Trade a schedule of rates, proposed terminal charges, and a classification of merchandise traffic. The Board of Trade is required to consider such classification and schedules, and to hear all objections that may be made thereto, *for the purpose of arranging the differences which may have arisen*. If the Board of Trade and the railroad companies agree, the schedules of rates and classification agreed upon are to be reported to Parliament for confirmation. If no agreement is reached, the Board of Trade is required to report to Parliament, stating the points of difference, with such recommendations as they may think *just and reasonable*. At the session of Parliament next after the one to which the schedules and classifications are reported, all parties in interest may be heard before a special committee. After confirmation by Parliament, changes may be made in rates by railway companies, with the approval of the Board of Trade. This Act does not apply to compensation for carrying the mails or parcels for the post-office department. Under the Parcels Act of 1882, the railway companies receive *55 per cent. of the gross receipts*, and if the weight of parcels, or prices charged by the Postmaster-General, are changed, the allowance of 55 per cent. may be revised.

Nothing in the Act of 1888 is to apply to transportation for the Secretary of War. Under the Act of 1883, the railroad companies receive for "*War Office Stores*" a *maximum of four cents per ton per mile, and the troops, when available, must load and unload the cars.*

Instructions given by the Board of Trade to railway companies under the Act of 1888 require each company to submit, with its proposed classification and schedules of charges, including terminal services, the *rates they are by their several acts authorized to charge.* From the whole scope of the Act of 1888, and the instructions of the Board of Trade based upon it, it is evident that the Government intends to supervise the action of railway companies in the matter of rates and classifications of merchandise *which such companies shall make for their several lines, and in doing so every precaution has been taken by Parliament to preserve to such companies maximum rates which on the whole shall be equal to those they were, by their charters, authorized to charge.* The object of the Government is evidently to regulate charges in the common interest of all concerned; but not to reduce rates for the benefit of the people to the injury of the railways.

We have before us copies of a large number of schedules of rates prepared under the Act of 1888, which have been submitted to the Board of Trade, and, as we understand, have been approved by the Board.

The average of such rates is more than double the rates now charged by railroads in the United States.

We find in all the acts relating to railways that the English Government has recognized that the companies are entitled to charge such *maximum rates* as are stated in their charters, and when no such rates were stated they may charge *such maximum rates as were considered reasonable at the time their railroads were constructed.*

We find, also, that in all cases *arbitration is provided for*, if a difference arises which can not be settled by agreement between the companies and the Government.

Lest it may be claimed that the Act of 1888 fails to recognize the right of arbitration, we will refer to a remark of Sir Michael Hicks Beach. Speaking with reference to the expense of proceedings before the Board of Trade, he said: "I hope very little expense will be incurred. *The Board of Trade will act as an arbitrator*, and mainly with a view to bring about an agreement between the trades and the railway companies."

W. A. Hunter, LL. D., M. P., in commenting upon the Act after its passage, says: "What may perhaps turn out to be the most important change introduced in the Traffic Act of 1888, is the power given to the Board of Trade to act as a *mediator* in all complaints of unreasonable charges or unfair or oppressive treatment by railway companies. In

"all cases the trader may go to the Board of Trade before resorting to litigation. *No coercive power is given to this department*, but, as the Board is required from time to time to report to Parliament, its recommendations can not fail to have great weight with railway companies." Referring to railway matters in England and America, he says: "*In Great Britain, from the first, railway concessions have been granted only after full consideration by Parliament.*"

"Competitive railways have been sanctioned by Parliamentary Committees, but not to anything like the extent that has prevailed in America. Competition, sometimes keen competition, exists between railway companies, but it does not lead to the reduction of rates and fares.

"*Rates and fares are stereotyped, and the competition among the railways is confined to affording greater facilities and accommodations. The third class passenger in 1889 pays as much as his prototype in 1845, but instead of being limited to one train a day, he can travel by nearly every train. He often travels at forty miles per hour, and he has, usually, ample accommodations. These advantages he has gained, but there has been no cheapening of fares. In the case of goods traffic, competition has also encouraged speed, but it has led to some practices that are bad for the railway shareholder, and of doubtful utility to the trader. It has given rise to an army of touts, or agents, whose services are of no value to the trades community; and, in other ways, it has led to a costly and unprofitable mode of conducting traffic.*"

A comparison in detail between the treatment of railway corporations by the British Government and the treatment of such corporations by the Government of this country, would reflect such discredit upon the latter that we must be excused from attempting it. The difference is as wide as the antipodes. It is like comparing justice with injustice.

In the United States the Federal Government orders the railroad companies to carry the mails, and does not even consult them as to the compensation to be paid. State officers issue orders, without consulting the railroads, fixing maximum rates for all other transportation. There is no attempt to make agreements. There can be no arbitration in this country between the Government and the railroad companies, on any matter of difference.

Instead of arbitration, the States reverse the common rule of evidence in cases of dispute as to rates, and require the railroad manager to prove his innocence, or suffer the penalty of the law. Our Government confiscates railroad property by enforcing ruinous competition, and by the arbitrary orders of Railroad Commissioners to reduce rates and fares. It does not spare poor women and children who have inherited from husband

or father a pittance representing the investment of savings in non-speculative railroads. It shows no mercy toward another class of shareholders, largely composed, also, of women who are the innocent victims of its speculating contractors and their brokers, who have "placed" the securities which it has been said the roads were "built to float."

During the last twenty years many charges have been made against railway companies in this country, by politicians and others, based upon the assumption that such companies were trying to earn dividends on "watered stock."

"Watered stock" has doubtless been issued by many speculative railroad companies since 1870; but, so far as we are advised, such stock was issued before that date, in a few cases only, and in all of them the entire capital stock had been foreclosed before 1870.

Notwithstanding so much has been said in regard to efforts to earn dividends on "watered stock," we have reason to believe that there is not a railroad company in the United States that has ever paid to its shareholders more than would amount to a fair rate of dividend on its shares, if such shares were reduced in number, so that each share would represent at par the actual amount of cash paid to the treasury of the company by the person to whom it was issued.

We have been for a long time in the railroad service, and have had an extended acquaintance with railroad managers; but we have never seen or heard of a railroad manager, who, when considering a tariff of rates, ever took into account the share capital or indebtedness of the railroad company. There are always other conditions that govern in such cases; and yet it is a common "cry," that railroads are "cheating the public" in their efforts to earn dividends on "watered stock."

The term "watered stock" should have a much wider application than is commonly given to it.

It is generally claimed that farmers, as a class, have greater cause for complaint against railways, by reason of alleged excessive charges, than any other class of persons, and that as a class they derive less benefit from railroads than any other.

When most of the non-speculative railroads, like yours, were being constructed in Illinois (from 1852 to 1856), about three-fourths of all the lands in the State were held by the General Government for entry at \$1.25 per acre. About 3,000,000 of acres near the line of the Illinois Central Railroad were at the same time held by the Government for sale at \$2.50 per acre. At this period, when persons residing in the Eastern States were investing their hard-earned savings in the construction of railroads like yours, and other roads constructed about the same time, farmers were purchasing lands in Illinois for \$1.25 per acre, which were about to be

made valuable for farming purposes by the construction of railroads, and in many cases such lands were purchased, by the use of land warrants, at a cost of less than \$1 per acre. What profit has the farmer or his heirs realized during the last thirty-five years on such purchases? No person having knowledge of the matter will contend that the average annual profit from cultivation has been less than \$4 on each acre, and that sum is equal to a profit of from 300 to 400 per cent. per annum on the cost of the land. What amount of "water" would be developed if the lands were now to be sold? Excluding the value of improvements, the lands are worth an average of more than \$50 per acre. At that price it would appear that there is \$49 of "water" for each dollar invested. The railroad corporations are unquestionably responsible for the "water" in the advanced price; the land-owner has absorbed it from the railroads. He is, nevertheless, entitled to it. It would be easy to show that all other classes of persons have absorbed the same kind of "water" from railroad corporations, and generally much more of it than the farmer. They, too, are fairly entitled to the "water" in their annual profits and in the advanced prices of their property. It may be said that farming lands can not now be purchased in Illinois and made to produce a large profit on their present market value. That may be true; but it is no reason why the railroad carrier should continue to reduce his charges for transportation indefinitely. The railroad has increased the value of lands to fifty, and in many cases one hundred, times its original cost; but there is a limit to its ability to enhance the profits of its patrons. This fact should be recognized and admitted by the people. That limit in most cases has been reached.

To arbitrarily force carriers beyond it is a species of highway robbery which can not be justified, although it may be lawful.

How stand the railroad corporations in the midst of the almost universal prosperity which they have at least done their full share to promote?

Thirty-five years ago the railway manager, the farmer, the merchant, and all others met on common ground.

The railway manager was permitted to consult with his patrons as to such rates as would best promote their interests, and, with proper regard for all, within reasonable limits, to act promptly upon information obtained from them, well knowing that no railway company can adopt a wiser policy than to promote the true interests of its patrons. It is for such service that payment is cheerfully made. For the last twenty years that has not been permitted. Since the poor railway has been held to service by the politician it has been going from bad to worse continually, and popular dissatisfaction has increased. To-day the railways are in the position of half-starved servants, who must be thankful for such crumbs as their masters may permit them to receive. Why this great change? What

have the persons who invested their savings in railways done to merit such treatment? That the Government has the power to deprive one class of its citizens of their just rights, has been demonstrated; but, in our judgment, its exercise can not be justified.

We do not believe that "might makes right." If it is right to arbitrarily limit the profits of one class of persons, or to deprive them of all profits, as has been done in the case of many railroads, why not do the same with other classes of persons?

If "watered stock" justifies such a course, what tangible property can be found in this country that does not contain the kind of "water" referred to; and why not serve all alike? We see to what absurd conclusions such suggestions lead. Why has it been possible to deprive one class in the West of their just rights that all others may profit thereby? The answer is easy. That class does not vote in the West.

The fact, as already stated, that the average rate of dividends paid in 1888 on shares of the New England railroads was *four dollars and fifty-six cents* per share, while in the same year an average of only *fifty-two cents* per share was paid in the West, may be accounted for in the same way.

It is said that we should not complain unless prepared to suggest a remedy. We will therefore suggest the ownership of railroads by the National Government, and the organization of a corps of railroad operators, who shall remain in the service during good behavior, and be in no greater degree under the influence of politicians or political parties than the army militant. The outlines of our suggestion may be stated as follows:

1st. The National Government shall acquire the ownership of all the railroads in the United States which are now used for Inter-State traffic; such railroads to be acquired by the exercise of its right of eminent domain, or by purchase, under such limitations and rules as to price as Congress may determine.

2d. Payment therefor to be made by the issue of Government bonds bearing interest at a rate not exceeding 3 per cent. per annum, said bonds to be redeemed by the annual application of a sinking fund equal in amount to 1 per cent. of the whole amount of such bonds issued; the annual interest and sinking fund to be paid from the net earnings of the railroads, and the rates for transportation from year to year to be reduced, so as to provide no more money than shall be needed for such payments.

3d. To the end that citizens of each State shall be required to pay no greater rates for transportation than shall be necessary to produce an annual amount of net earnings on the railroads of the State in which they reside equal to the annual interest and sinking fund on the bonds issued

by the Government in payment for such railroads, separate schedules of rates shall be made for transportation on railroads in the several States, and changed from time to time, as may be necessary to secure that object.

4th. Such railroads as may be hereafter constructed and used for Inter-State traffic in the several States may be purchased by the National Government or not, at its option. If the Government shall at any time not elect to purchase railroads hereafter constructed and used for Inter-State traffic, it shall nevertheless have the right to make through rates, from time to time, for traffic over the same, in connection with other Inter-State lines, and all such through rates shall be divided between the several lines owned by the Government and lines not so owned, in proportion to mileage.

5th. A Board of National Railroad Directors, consisting of —— persons, shall be appointed by the President of the United States, and the persons so appointed shall hold such offices during good behavior. The Board of Directors so appointed shall exercise general supervision over, and issue all necessary general orders relative to, the maintenance and operation of such railroads, subject to such laws as Congress may from time to time enact. It shall be the duty of said Board to cause proper general regulations and rules to be prepared, which shall provide for the appointment and define the duties of all necessary officers and employés in the railroad service of the Government, and shall state, in connection therewith, the amount of compensation each officer and class of persons so employed shall receive. Such regulations shall (except in cases in which services are needed for a short time only) provide that during the first year's service each person appointed or employed shall be considered on probation, and if not discharged before the end of that year, he shall not thereafter be discharged without sufficient cause, concerning which proper investigation shall be made, the intent being to keep men in the service during good behavior, as far as practicable. All general regulations and orders shall be consistent with authority conferred by act of Congress.

6th. All rates for Inter-State traffic on all railroads in the United States to be fixed and changed from time to time by the National Board of Directors, in their discretion; provided, however, that in fixing such rates the Board shall see that the rates are in proper proportion with all local rates, and that the aggregate annual net earnings resulting from railroad traffic shall each year be, as nearly as practicable, equal to the amount required for the annual interest and sinking fund before referred to.

7th. All schedules of rates for traffic which does not cross the boundary-line of a State or Territory of the United States may be prepared and submitted to the National Board of Directors by Railroad Commissioners or other persons duly authorized by State authority, and all schedules, when

so prepared and submitted, shall be carefully examined by said Board. If in the judgment of the Board such schedules of rates are proper, and will produce the requisite amount of net earnings, they shall adopt the same. If the members of the Board think otherwise, it shall be their duty to notify the Commissioners or other State officers who have submitted a schedule which they are not prepared to adopt, requesting a conference, that points of difference may be agreed upon, if found proper, after consultation. If such agreement is not arrived at, then the Board of Directors shall make such amendments to the schedule submitted as in their judgment their duty shall require, before adopting the same. Proper provision shall be made for persons injured by accident while in the service, and for such as may, after having served — years, become superannuated.

In view of the fact already demonstrated, that the actual value of railroad investments has been reduced during the last five years nearly *one thousand millions of dollars*, and is now being reduced by the course pursued by State and Federal Governments at the rate of nearly *one million of dollars per day*, it would appear that if anything is to be saved by shareholders of at least three-fourths of the railroads in the United States, there should be no further delay in making their appeal to the Government or the people. The day has passed when an appeal can be successfully made to a State Legislature for indemnity on account of losses the State has caused, as was done in Illinois thirty-five years ago. The money which has been invested and lost in railway enterprises—no matter what has caused the loss—can not be recovered. The people have been told for many years that they have the right to demand and receive railroad transportation subject to such regulations, and for such compensation as they may dictate at their pleasure, and the Courts have in substance so decided. That railroad charges are now too low to support all the railroads, has been practically demonstrated; but for reasons we need not discuss, it is probably impossible to advance them to such a degree as would be necessary to support all the roads.

Shameful as the record of the treatment of railroad shareholders by the Government has been and still is, probably nothing less potent than a special interposition of Providence can so change public sentiment as to induce the Government to do anything which could be construed as an admission that it has been in the least degree wrong or unjust in its treatment of railroad corporations during the last twenty years. The suggestion we have made appears to avoid the necessity for its making such an admission if the course we have indicated should be adopted.

The difference between the amount of annual interest and sinking fund on the Government bonds to be issued in payment for the railroads, and the amount the railroad companies now pay annually on account of

interest, sinking funds, and occasional dividends would at least enable the Government to continue present rates for transportation, and would probably enable it to immediately reduce them. Rates still lower could be made from year to year as the amount of bonds outstanding is reduced by the sinking fund, and when all the bonds shall have been redeemed, rates for transportation need be no greater than may be found necessary to pay operating expenses.

One of the incidental benefits to be derived from the proposed issue of Government bonds would be the use of such bonds for continuing National Banks. Under other conditions we would not advocate the purchase of the railroads by the Government; but we can see no reason to fear that the corps of railroad operators will be made a political factor, if organized as suggested, and we can see no reason why the proposed Directors may not act with as much freedom from political bias, and command as much confidence as Justices of the Supreme Court, or other officers, who hold office during good behavior, now do. While, under ordinary conditions, we believe the less business the Government is charged with the better for all concerned, we, nevertheless, believe the present railroad problem contains certain elements which preclude any better solution of it.

It is evident that the disposition of the people to continue the reduction of rates for transportation from time to time "grows by what it feeds upon."

It would therefore appear that shareholders of a great majority of the railroads have but one alternative. They must either sell their remaining interest in railroads to the Government at such price as it may in its sovereign pleasure be willing to pay, or submit to the continuing process of confiscation, and soon lose the remainder of the capital they have invested therein.

For the purpose of judging whether we may reasonably expect relief by a change of governmental policy, and what course we should pursue to obtain it, it seems necessary to consider the relation in which the people stand with reference to the Government.

It appears to us that there are practically three classes of popular sovereigns in the United States; which we will refer to in the order of their rank as indicated by the power they commonly exercise.

1st. A very numerous class, the members of which are continually seeking important official positions for themselves or their friends. Its members in most cases determine who shall be elected to office by controlling primary meetings for the selection of candidates, and by managing "political machines." During the interval between elections, they give to persons in office such information as they need in shaping their course with reference to the next election. This class of persons by their

long continued cries of down with "Railroad Monopoly," down with "grasping corporations," (gasping would be a better word) and other similar appeals to popular prejudice, have pushed the confiscation of railroad property to the verge of complete destruction.

2d. Politicians of ability and integrity, who are generally in office, and who intend to serve their country in accordance with their best judgment, or at least as far as it can be done without lessening their chances for promotion or re-election. They seek instructions from the class we have first referred to, on nearly all questions that arise, and appear to believe that it is their duty to represent their constituents in the light of such instructions, whether in so doing they act in accordance with their own judgment or otherwise.

3d. A class more numerous than both of the others, which embraces all voters not included in the classes before referred to. Of this class, it may be said that its members (with few exceptions) are eminently respectable. They devote their time to their own business and social affairs, and give little attention to the selection of persons to make laws, or to the character of laws when made. If their attention is called to an unjust law, they do not appear to think they are in any degree responsible for it; and their neglect to act in the matter seems to result from their belief that that which is the duty of all does not impose any responsibility upon them individually. To present a type of the honest politician who makes laws, and who is generally in office, the writer will relate his experience with one of them some years ago: Having occasion to procure the passage of a certain law, in order to compel a railroad company about to be re-organized to deal justly with a connecting line, which had been constructed for its sole use, the writer made known his wishes to the leader of the dominant political party in one of our Western Legislatures.

This leader said: "What you ask is just; it will be a great wrong if it is refused by the Legislature."

"Then, you will vote for the bill?"

"Oh, no; I can not do that. My constituents are opposed to all corporations; they would never forgive me, or elect me to office again, if I should vote for anything wanted by a corporation."

This man, in his individual transactions, is as honest and fair as a man can be, and in political contests he is often spoken of by his opponents as an honest politician. His courage is undoubted; he has demonstrated it on many a bloody field of battle.

We think we may safely assume that he is a fair type of a large majority of the members of State Legislatures, and of Congress. He, no doubt, believes that he does his whole duty when he represents what he is informed is the wish of his constituents, although by so doing he may participate in the enactment of laws which his judgment tells him are unjust.

The patriotic citizens we have referred to as Class No. 1, in whom resides the "power behind the throne" in this country, must not be overlooked in any proposed measures for relief.

They have already ridden the railroad hobby nearly to death, and we believe would consider our suggestion with favor. During one Presidential campaign the old hobby would still be of some use to them. They would doubtless like to elect a President whose duty it would be to appoint the National Board of Railroad Directors, and such Directors in organizing the corps of railroad operators might find places for some of their friends who would be willing to keep out of politics thereafter.

There would still be State Boards of Commissioners to be elected, or appointed, and the railroad hobby might continue to be of some use within narrow limits.

May we not appeal to the members of the largest class of popular sovereigns—to whom we have referred—with some hope of gaining their attention and influence in behalf of just treatment by the Government? Although the members of that class have not actively participated in promoting the policy of spoliation by reduced rates, which has caused such great loss to shareholders, they have participated, in common with others, in profits gained at the expense of shareholders. This from necessity they must do while the governmental policy is continued unchanged. But may we not respectfully remind them that they are each of them in some degree responsible for the acts of the Government. Our respect for the great majority of that class of sovereigns is such that we have no doubt they would prefer that all persons should pay a fair price for railroad transportation. But we fear some of them are like the Irishman, who, after having taken the temperance pledge, said he could not be so "unkind" as to remonstrate with a friend who had shared contraband whisky with him by putting some of it in his tea "unbeknownst" to him. We presume it will not be seriously denied that the Government is morally responsible for the results of its own acts.

It is idle to say that the State Governments are not responsible for the construction of too many railroads. They, and they only, have had absolute power to prevent building railroads.

No railroad ever has been, or can be, constructed in the United States, except by State or Federal authority.

No corporation ever has constructed a railroad in this country without first receiving, in writing, from the Government, under its great seal, evidence of its authority to construct its proposed road, and, in all such cases, obligations are assumed on both sides, by the corporation and by the Government, which are in the nature of a contract, as has been held by the Supreme Court of the United States. It is true that the State

Governments have repudiated, in part, many such contracts; but such repudiation can not relieve them of moral responsibility for their unjust acts. They should have had proper regard for the rights of all—railway shareholders as well as all other classes—and should have refused to authorize one corporation to prey upon another, to the end that the public may for a short time profit thereby. It is no answer to say that for years new railroads have been constructed in many States under general laws. Unless general laws promote the general welfare and protection of all, they should be repealed.

The powers of railroad corporations are few and well-defined. If such powers are not properly exercised, a remedy may be easily and promptly applied by order of court, or in some way by which the rights of all shall be considered and protected.

It is no answer to say that the object in multiplying railroads has been to regulate rates or to reduce them within reasonable limits. Reasonable rates can not be secured by multiplying railroads without limit.

As well might a man at the head of a large family attempt to regulate his servants, of whom he has already a sufficient number, by adding as many as his house will hold, and then attempt to obtain good service from them by reducing their wages and keeping them in a half-starved condition.

What would be thought of such a man, who, when he finds his hungry servants agreeing to peaceably divide the limited rations within their reach, issues an order prohibiting all such agreements under severe penalties? And when he finds that, without agreement to fairly divide their daily bread, extreme hunger leads to strife, resorts to scolding, and tells them they are causing him and themselves unnecessary trouble by their failure to act like gentlemen?

We have called your attention to some of the salient features of the railroad history of our country. It is to the credit of every other country that it is without a parallel. If the history of railroad construction, and the treatment which railroad shareholders have received during the last twenty years from our Government, does not appeal to the sense of justice, which is believed to be a characteristic of the American people, no words of ours can do so. We do not believe that the State and Federal Governments are unable to exercise proper control over the management of railroads without reducing them to bankruptcy, as has been done in so many cases.

If our Government finds that, in order to exercise proper rule, it is necessary to ruin its most useful servants, then let us frankly admit that it is a failure, and humbly ask Queen Victoria to permit us to return to the protection of our mother country.

We believe that in no country in the world is the desire to conform to the "Golden Rule," or a higher sense of honor and honesty manifested by a majority of its intelligent citizens, in their individual transactions, than in our own. Nothing can be said to the average American citizen that will arouse his honest indignation to a higher degree than to charge him with dealing unjustly or unfairly with his fellow man.

We would, therefore, naturally expect that our Government would embody in its laws, and enforce, the honest intent of the great majority of our people. In the main it does so; but in its relations with railroad corporations there has been for years, and is now, a remarkable exception.

Whether there is any remedy within the reach of honest men, is very doubtful. But those of us who represent railroads built at an early day, not for purposes of speculation, but when and where the welfare and prosperity of the people actually required them, among whose shareholders are many thousands of poor men, women, and children, whose daily bread, in a large degree, depends upon just treatment of railroad corporations by the Government, should no longer remain silent.

Why your railroad is now operated with more favorable results than many others in the West, was explained to you in our last Annual Report. Briefly stated, the reason is, that for many years your Company has, as far as possible, continued to prepare for the existing difficulties, under which all Western railroads now labor. Your Company is an exception to-day, but we can give you no assurance that it will long so continue.

It is certainly within the power of the Government to continue its present policy. If it does continue it, there will soon be no exception; all will be involved in one common destruction of railroad values.

We again request you to exert, in such manner as you may think proper, such influence as you may have with those who dictate the policy of our Government; and we still hope that, if we can induce the people to listen to us, they will say to their representatives in Congress, and in the several State Legislatures: "Let justice be done."

By order of the Board.

T. B. BLACKSTONE,
President.

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THE RAILWAY AGE PUBLISHING COMPANY.

State of Connecticut.

STATUTES

RELATING SPECIALLY TO

RAILROADS,

REVISED AND CORRECTED, AND INCLUDING THE LAWS PASSED

BY THE

GENERAL ASSEMBLY,

January Session, 1878.

HARTFORD:

PRESS OF THE CASE, LOCKWOOD & BRAINARD COMPANY.

1878.

STATUTES OF CONNECTICUT RESPECTING RAILROADS.

SECTION 1. The governor shall, annually, within sixty days from the organization of the general assembly, nominate, and with the advice and consent of the senate shall appoint, one railroad commissioner, who shall hold his office for the term of three years from and after the next succeeding first day of July. The senate shall act on all nominations of the governor within ten days after they are made. If the governor shall fail to nominate, within sixty days after the organization of the general assembly, some person for railroad commissioner who shall be confirmed by the senate, the general assembly shall fill the vacancy which will arise during the year.

1877.
Railroad com-
missioners,
how appointed.

SEC. 2. One of the railroad commissioners shall be a lawyer in good standing in his profession, and of at least ten years' practice. One of said railroad commissioners as hereafter appointed shall be a capable and experienced civil engineer, of at least ten years' practice in his said business as civil engineer; and the other of said railroad commissioners as hereafter appointed shall be a good practical business man, and they shall be and constitute the board of railroad commissioners.

Composition of
the board.

SEC. 3. If any vacancy occurs in said board of railroad commissioners at a time when the general assembly is not in session, the governor shall appoint a railroad commissioner to fill such vacancy until the rising of the next session of the general assembly; and all other vacancies shall be filled for the remainder of their respective terms in the manner provided by section one of this act; and no stockholder or agent of any railroad company shall be a commissioner.

Vacancy, how
filled.

SEC. 4. The board shall appoint a clerk, and have an office in Hartford, where its records shall be preserved, which shall be kept open during the usual business hours. If the comptroller does not furnish said board a proper office, it may hire one at an annual rent not exceeding five hundred dollars.

Office and clerk.

SEC. 5. The railroad commissioners shall keep a record of all communications addressed to them officially, of all their official acts and proceedings, and of all facts learned in relation to any casualty, with the names of the persons from whom they were derived, or by whom they may be proved, may employ experts or other agents when necessary, and shall have the powers and be subject to the duties specified in chapter two, part nine, of title seventeen, of the general statutes.

Records.

SEC. 6. The office expenses and salaries of the board shall be paid quarterly from the treasury, and in July in each year the whole amount so paid during the year ending the fourth day of July shall be apportioned by the comptroller among the several railroad companies, in

Salaries and
contingent ex-
penses.

proportion to the length of the main track or tracks of their respective railroads in this state, and each company, and the trustees, assignees, lessees, or other parties operating any such railroad, shall pay the treasurer their proportion of such amount.

Repeal.

SEC. 7. All acts and parts of acts inconsistent herewith are hereby repealed.

Title XIII, Chap. 1, Sec. 2.

The salaries * * * of the Railroad Commissioners and their clerk * * * shall be paid quarterly.

Title XIII, Chap. 2.

The salaries of Railroad Commissioners fixed at three thousand dollars each, and that of the clerk at eighteen hundred dollars.

Title VI.

1844. 1865.
Notice of petitions concerning railroad, canal, or turnpike charters.

SEC. 8. No petition for the incorporation of any railroad, horse railroad, canal, or turnpike company, or for an alteration of the charter of any such company, shall be heard by the General Assembly, unless public notice shall have been given by advertisement, in some newspaper published in the county where such railroad, horse railroad, canal, or turnpike is proposed to be, or is located, at least three weeks before the first day of the session to which such petition is brought, designating the intended route of such railroad, canal, or turnpike, the streets, highways, and other intended route of such horse railroad, or the proposed alteration of such charter; nor unless the petition for such railroad company is accompanied with, and supported by, the report of a skillful engineer, founded on examination, showing the general profile of the surface of the country through which said railroad is proposed to be made, the manner of its construction, the feasibility of the route, the character of the soil, and the probable expense of constructing the same.

1849.
Petitions to be accompanied by report of engineer.

Title XVII, Chap. 2, Part 9.

ARTICLE I.

ORGANIZATION OF COMPANIES.

1871.
General railroad law.

SEC. 1. Any number of persons not less than twenty-five, may form a company for the purpose of constructing, maintaining, and operating a railroad for public use in the conveyance of persons and property.

Articles of association.

SEC. 2. The persons forming such railroad company shall make and sign articles of association in which shall be stated: first, the name of the company; second, the place where its principal office or place of business is

located, which shall be and continue in this State; third, the places from and to which, and the names of all the towns through or into which it is proposed to construct, maintain, and operate said road; fourth, the length of said railroad, as nearly as may be, and the amount of capital stock of the company, which shall not be less than ten thousand dollars for every mile of road proposed to be constructed; fifth, the names and residence of not less than nine directors of said company, who shall be chosen by the persons subscribing said articles of association, and a majority of whom shall always be residents of this State and who shall manage its affairs for one year; but the amount of the funded and floating debt of any such corporation shall at no time exceed the amount of cash actually paid in upon its capital stock.

SEC. 3. The capital stock of said company shall be Capital stock. divided into shares of one hundred dollars each, and each subscriber to such articles of association shall subscribe thereto his name, residence, and the number of shares he agrees to take in said company; and on compliance with the provisions of the succeeding section, such articles of association may be filed in the office of the Secretary of this State, who shall indorse thereon the day they are filed, and record them; and thereupon the persons who have subscribed such articles, together with all persons who shall become stockholders of such company, shall be a corporation by the name specified Name. in such articles.

SEC. 4. Such articles of association shall not be filed Engineer's report to accompany the articles of association. and recorded unless they are accompanied by the report, under oath, of a skillful engineer, founded on an actual examination of the route, showing the character and structure of the proposed road-bed, with its indications of rock or earth-cuttings; the manner in which it is proposed to construct said railroad; the general profile of the surface of the country through which it is proposed to be made; the feasibility of the route, and an estimate of the probable expense of constructing the same; a copy of which report shall be kept on file in the office of the Secretary of this State; nor shall such articles of association be filed and recorded until at least five thousand dollars of stock for every mile of railroad proposed to be made is subscribed thereto, and ten *per cent.* of such subscription paid in cash to the directors named in said articles, nor unless there is annexed thereto an affidavit made by at least three of said Affidavit by directors. directors, that the amount of stock required by this section has been in good faith subscribed, and ten *per cent.*

in cash paid thereon as aforesaid, and that it is intended in good faith to construct the road named in such articles; and a copy of any articles of association filed and recorded as aforesaid, or of the record thereof, certified by the Secretary of this State, shall be *prima facie* evidence of the due formation, existence, and capacity of said corporation.

Subscriptions
to the capital
stock.

SEC. 5. When such articles of association are recorded in the office of the Secretary, the directors may, in case the whole of the capital stock is not subscribed, open books of subscription to the same in such places and on such notice as they may deem expedient, and may continue to receive subscriptions until the whole of the capital stock is subscribed; and no subscription shall be received or taken without such payment of ten *per cent.*; but such company shall not commence the construction of its road until at least ten thousand dollars a mile is subscribed to the capital stock thereof by responsible persons.

Powers of the
company.

SEC. 6. Every railroad company may hold such real estate as may be convenient for accomplishing the objects of its organization; may by its agents enter upon such places as may be designated by its directors, for the purpose of making surveys and determining the line, whereon to construct said railroad; and may construct, equip, and maintain a railway, with one or more tracks, over the route specified in its charter or articles of association, and transport persons and property thereon by any power.

1867.
Right of way to
be obtained in
twelve months.

SEC. 7. No land shall be taken without the consent of its owner except within twelve months after the approval of the location of the route by the Railroad Commissioners; and when the lands of any *feme covert*, infant, *cestui que trust*, or person *non compos mentis*, shall be necessary for construction of any railroad, said lands may be taken on giving notice to the husband of such *feme covert*, the trustee of any such *cestui que trust*, the guardian, either natural or appointed, of such infant, and the conservator of such person *non compos mentis*, who may respectively release all damages for lands so taken, as fully as if the same were holden in their own right.

Trustees may
release.

Increase of cap-
ital stock.

SEC. 8. In case the capital stock of any railroad company is found to be insufficient, it may, with the concurrence of two-thirds in amount of the stock represented at a meeting of the stockholders called for that purpose, increase its capital stock to such amount as may be required for the purposes of said road, and in such manner and on such terms as may be prescribed by said meeting; and the board of directors of any railroad company

may at any time, with the assent of its stockholders, increase its capital stock to an amount sufficient to extinguish its funded and floating debt; but the amount of such increased capital stock, at its par value, shall not exceed the amount of such debts, and such increased stock shall only be issued to take up and cancel an equal amount of debts as aforesaid.

SEC. 9. If any company formed under the provisions of this Article shall not within one year after its articles of association are filed and recorded in the office of the Secretary of this State, commence the construction of its road, and expend thereon ten *per cent.* of the amount of its subscribed capital, or shall not finish or put in operation its railroad within five years from the time of recording its articles as aforesaid, its corporate existence and powers shall cease.

SEC. 10. Nothing contained in this article shall be construed to authorize the construction of any horse-railroad in any city or borough; or the bridging of navigable waters; or the taking or using the track, wharves, depôt or depôt grounds of any other company without its consent, except for the purpose of crossing or connecting.

Corporate powers forfeited by non-user.

These provisions not to apply to horse railroads, nor authorize bridging navigable waters, or interfering with existing railroads.

ARTICLE II.

STEAM RAILROADS.

SECTION

1. *Officers and Members.*

1. What railroads included in the provisions of this Article.
2. Company officers and by-laws.
3. President or vice-president not to hold same office in foreign company.
4. Meetings, how called; stock votes.
5. Officers, when not to vote on proxies.
6. Stock not to be voted on, if assessments are unpaid.
7. Votes on stock of town, by whom cast.

2. *Railroad Commissioners.*

8. To pass over road free.
9. To give notice before approving lay-out.
10. To certify that road is safe, before it is opened.
11. To examine roads, how often.
12. General duties.
13. May order gates, flagmen, and signals.
14. May make recommendations.
15. May apply for injunction against any company, when.
16. Power to examine witnesses; penalties for resisting.
17. Report to General Assembly.

3. *Location and Construction.*

18. What lands may be taken.
19. Alteration of location.
20. How lands may be taken.
21. Damages, if road is never actually opened.

SECTION

22. Owners may require a plan of land taken.
23. Map of road to be filed with town clerk.
24. Statement to be filed with Secretary.
25. Payment of laborers.
26. Crossing other roads.
27. Contracts with connecting roads.
28. Crossing highways or water courses.
29. Appeals from order authorizing crossing of streams.
30. Alteration of highways intersected: bridges.
31. Warning boards at grade crossings.
32. Right of way, how obtained on altering highways.
33. Height of covered bridges.
34. Footways on railroad bridges.
35. Railroads to be fenced within twelve months.
36. Land owners to fence, when.
37. Companies to fence, when.
38. How compelled to fence.
39. Penalty for neglect.
40. Land owners, how compelled to fence.
41. Lien on land of owner neglecting to fence.
42. Company to fence next to highway.
43. And between road and highway, if unclosed.
44. Re-imbursement by owner of land.
45. Cattle-guards.
46. State's Attorney to complain, if company fail to repair highways.

4. *Dépôts.*

47. When railroad trains to stop near villages.

SECTION

48. Stations, how established on petition to judge of Superior Court.
49. Security for compensation of engineer.
50. Stations not to be abandoned without approval of Commissioners.
51. Abandoned stations, how re-established.
52. Appeals from Railroad Commissioners.
53. Application to Superior Court to compel stoppage of trains at dépôts.
54. Hearing before committee.
55. Report of committee.
56. Order of court, how enforced; costs.

5. *Obligation of and to Companies.*

57. Companies to afford each other mutual facilities.
58. How compelled to make proper connection.
59. Trunk roads to afford equal facilities to intersecting roads.
60. How to compel this to be done.
61. Order by Railroad Commissioners as to railroad connections.
62. All connecting roads to have equal facilities.
63. Penalty.
64. Connecting aprons; hand-cars not to be left near crossing; drinking water for passengers; baggage checks; names of dépôts to be posted up; designation of destination of trains.
65. Fraudulent evasion of paying fare.
66. Change in commutation fares.
67. Transportation of milk.
68. Certain employés to wear badges.

SECTION

69. Trespasses on cars on tracks; riding on platform.
70. Complaint by railroad agents.
71. Punishment.
72. Engine bells and whistles.
73. To be sounded at crossings.
74. Engineers to have copies of this law, and be sworn to obey it.
75. Stopping trains at bridges and crossings.
76. Penalty.
77. Stopping trains at dépôt near drawbridge.
78. Switches at railway junctions.
79. Special order by Commissioners to passing crossings without stopping.
80. Number of brakemen required on a train.
81. Notice to Commissioners of accidents.

6. *Bonds and Mortgages.*

82. Loans and Bonds.
83. Mortgage of road.
84. Surrender of road to mortgage trustees.
85. Limitation of liability of trustees in possession.
86. Return and record of inventory.
87. Rendition of quarterly accounts; foreclosure.
88. Removal of trustees.
89. Right of prior of incumbrances saved.
90. Trustees to have the powers of the company.
91. Expenses and compensation of trustees.

7. *Reports of Companies.*

92. Forms of reports.
93. Reports to be made annually.
94. Additional returns.
95. Defective returns.

1. OFFICERS AND MEMBERS.

SEC. 1. All railroad companies, which transport passengers or freight on their roads otherwise than by animal power alone, shall have all the powers and be subject to all the provisions contained in the succeeding sections of this article respecting such companies, except otherwise specially provided in their charters.

SEC. 2. The direction of the affairs of every such company shall be vested in a board of not less than nine directors, annually chosen by the company, who may fill any vacancies which may occur in their number, and shall elect one of their own number president of the board, who shall also be president of the company, and may also choose a secretary, who shall also be secretary of the company, and be sworn to a faithful discharge of his duty, and a treasurer who shall give bonds to the company in such sum as shall be required by the by-laws, for the faithful discharge of his trust, and such other officers as they may deem expedient, and may make by-laws and regulations in regard to the management of the stock, property, and affairs of said company.

SEC. 3. No president or vice-president of any railroad company situated wholly without this State, having of company out a board of officers unconnected with any railroad com-

1840.
1862. 1871.
What railroads
included in the
provisions of
this Article.

Company Offi-
cers and by-
laws.

1853.
President or
vice-president
of company out

pany incorporated in this State, shall hold the office of president or vice-president of any railroad company incorporated in whole or in part by the laws of this State.

SEC. 4. All meetings of the company shall be called in such a manner as shall be provided in the by laws, and at such meetings each member shall be entitled to one vote for each share held by him.

SEC. 5. Every railroad company may prohibit the officers from voting in the election of directors upon any other stock than their own; and no officer of such company shall request any stockholder to execute a power of attorney to vote upon his stock; and no person shall be allowed to vote by virtue of a power so obtained; and any person who shall violate the provisions of this section shall be disqualified from holding any office in said company for one year thereafter.

SEC. 6. No subscriber to the capital stock of any railroad company shall be allowed to vote on any of said stock, unless all assessments or installments on it, legally called in by such company, shall have been paid in full.

SEC. 7. The agent appointed by the town to subscribe for stock in any railroad company may vote on the shares of stock subscribed for by him, in all meetings of such company, unless such town shall otherwise direct.

2. RAILROAD COMMISSIONERS.

SEC. 8. The Railroad Commissioners shall have the right to pass free of charge, in the performance of their duties, on all the railroads in the State, and to take with them any person in their official employment.

SEC. 9. Before the Railroad Commissioners shall approve the laying out of any railroad, or the taking of any real estate for the purposes of said road, or any change or alteration of the same, they shall give reasonable notice to all persons having an interest in such estate to attend and be heard; and the appraisers shall cause a like notice to be given to all persons interested in the real estate taken or proposed to be taken; and if any such person resides out of this State, or is a *feme covert*, infant, or *cestui que trust*, or *non compos mentis*, any judge of the Superior Court may prescribe the notice to be given to such person.

SEC. 10. No part of any railroad shall be opened for public travel unless the railroad company shall first obtain a certificate, signed by the Railroad Commissioners, that such road is in a suitable and safe condition.

SEC. 11. The Railroad Commissioners shall, at least twice in each year, examine the several railroads in this

of State not eligible to similar office in this State.

1849.
Meetings, how called; stock votes.

1853.
Officers, when not to vote on stock of others.

Penalty.

Stock not to be voted on, if assessments are unpaid.

1869.
Who may vote on shares of railroad stock subscribed for by towns.

To pass free on railroads.

To give notice before approval of lay-out, &c.

1856.
To certify that road is safe before it is opened.

1850. 1856.
1862.
To examine

railroads at
least twice a
year.

State, and shall make a like examination of any railroad within the limits of any town, when thereto requested in writing by the selectmen, and shall see that the same are kept in suitable repair, and that the railroad companies faithfully comply with all provisions of law.

1874.
General duties.

SEC. 12. Said Commissioners shall cause such portion of the laws relating to railroads, as they deem proper, to be posted as they shall direct; and may at any time, and on the complaint in writing of five of the stockholders or creditors of any railroad company, assigning sufficient reason, shall examine its railroad and all its appurtenances, engines and cars, and its by-laws and rules, and in such examinations shall pass over the road at a rate not exceeding six miles an hour, and shall stop at each culvert, bridge, and piling, and examine the same, and shall examine the rails and ties in every mile; notifying the company in writing of the time of such examinations; and shall notify the company to make all repairs required within a time limited; shall make such rules as to platforms and out-buildings at stations, as are for the public interest; may prescribe the time during which any ticket office shall be open for the sale of tickets, and no company neglecting such order shall receive more than the regular ticket price for fare; shall make necessary orders for compelling companies to furnish comfortable seats for passengers, and for regulating the manner in which companies shall manage their engines and cars at highway crossings, shall direct that suitable warning boards be put up at dangerous crossings; may require companies to maintain a gate across a highway at any crossing, and to provide an agent to open and close the same; shall, when two roads meet or intersect, at the request of the directors of the company owning either, prescribe rules relative to the exchange of passengers and luggage; and shall cause printed copies of the sixty-ninth, seventieth, and seventy-first sections of this Article to be kept posted up at all railroad stations.

1860. 1865.
May order
gates, flagmen,
or signals.

SEC. 13. Said Commissioners, when requested in writing by the selectmen of the town to order a gate or electric signal to be erected or a flagman to be stationed at any railroad crossing, shall visit such place, first giving said selectmen reasonable notice thereof; and if the public safety requires it, shall order the company operating said railroad to maintain a gate or electric signal, or to keep a flagman at said place, or to do any other act at said place needful for the protection of the public; and may specify when said gate shall be opened and closed, or when said flagman shall be on duty; and may change any such order when they deem it necessary, first visiting

said town and there giving said selectmen an opportunity to be heard thereon. And if any railroad company shall neglect to station flagmen as ordered by said Commissioners, it shall forfeit to the State fifty dollars for each day of such neglect.

When the Railroad Commissioners, on the application of the selectmen of any town, shall make an order as provided herein, or refuse to make the same, their decision shall be communicated to the parties in interest within twenty days from the final hearing on the same, and either party aggrieved by such decision may appeal therefrom to the Superior Court, in the manner and with like effect as provided for appeals in section fifty-two of this Article. But in all cases where a flagman, gate, or electric signal shall be ordered by the Superior Court upon an appeal taken by the selectmen of any town, such court may, at its discretion, order a portion of the expense of maintaining or erecting the same, but not exceeding one-half, to be borne by the town in which the crossing is situated; and the Superior Court may at any time upon the application of either party, with due notice to adverse parties, annul or vary any order passed as aforesaid: *provided*, such court shall find there has been a change of the circumstances surrounding such crossing.

SEC. 14. The Railroad Commissioners shall recommend in writing to the several railroad companies, or any of them, from time to time, the adoption of such measures and regulations as such Commissioners deem conducive to the public safety and interest; and shall report any neglect to adopt such recommendations to the next General Assembly.

SEC. 15. If, upon examination of any railroad, or the affairs of any railroad company, the Commissioners shall be of opinion that such road is in such condition, or that its affairs are so conducted as to endanger the safety of the public, or that the company has violated the law or refused to obey the directions of said Commissioners or of any judge of the Superior Court, made pursuant to the powers given in this Part, they may within one year after said examination make application to any Judge of the Superior Court for an injunction to restrain any person from exercising or attempting to exercise the duties of any office in such company; and said judge may proceed thereon as the Superior Court may do on petitions for any injunction.

SEC. 16. The Railroad Commissioners may summon and examine under oath such witnesses as they may think proper in relation to the affairs of any railroad company; and whoever shall refuse, without justifiable

1875.
Appeals from
order of Rail-
road Commis-
sioners as to
gates, flagmen,
&c.

1853.
May make
recommendations.

1853.
May apply for
injunction
against corpora-
tion, when.

1873.
Power to ex-
amine wit-
nesses.
Penalty for re-
sisting.

cause, to appear and testify, or who shall in any way obstruct any Railroad Commissioner in the discharge of his duty, shall be fined not exceeding one thousand dollars, or imprisoned not exceeding one year, or both.

Report to General Assembly.

SEC. 17. The Railroad Commissioners shall make a report of the general conduct and condition of all railroads, and of any violation of law by any of them, to each General Assembly in the second week of its session, with such suggestions for legislation as they deem proper.

1876.

3. LOCATION AND CONSTRUCTION.

1849.
Company may lay out road and take land on payment of appraisal.

SEC. 18. Every railroad company may lay out its road not exceeding six rods wide, and for the purpose of cuttings, embankments, and procuring stone and gravel, and for necessary turnouts, may take as much more real estate within the limits of its charter as may be necessary for the proper construction and security of the road; but no real estate without the limits of said road shall be so taken, without the permission of the parties interested therein, unless the Railroad Commissioners, on application of such company, and after notice to said parties, shall first prescribe the limits within which real estate shall be taken for said purposes; and no railroad company shall lay out and finally locate its road, without the written approbation of the location by said Commissioners, except so far as the location is definitely fixed in the charter or articles of association, provided that all damages that may be occasioned to any person by the taking of any real estate for said purposes shall be paid for by said company, as hereinafter provided.

Commissioners shall prescribe limits.

1863.
Alteration of location.

SEC. 19. Every railroad company, after its line of road shall have been located, approved, and established, may so far alter the location of such road as to change the radius of its curves, straighten and improve its lines, width and extent of dépôt grounds, slopes and embankments, and extend its lines of sight, when such changes are approved by the Railroad Commissioners; a certificate of which changes, duly signed by such Commissioners, shall be lodged for record in the town clerk's office, in the town or towns where such changes are made.

Certificate of alteration to be recorded.

1849. 1863.
1871. 1874.
Land, how taken, appraisal, damages, &c.

SEC. 20. When any railroad company shall have the right to take real estate for railroad purposes, and cannot obtain it by agreement with the parties interested therein, it may apply to any judge of the Superior Court for the appointment of appraisers to estimate all damages that may arise to any person from the taking and occupation of such real estate for railroad purposes, and after reasonable notice of said application shall have been

given to all parties in interest, such judges shall appoint three appraisers; who shall be sworn, and give reasonable notice to said parties in regard to the time and place of making such estimate, and shall view the premises and estimate such damage, but shall not include in such estimate the expense of erecting and maintaining fences along the line of such railroad; and shall return an appraisal of such damages in writing, under their hands, to the clerk of the Superior Court in the county where the estate lies, who shall record it; and when so returned and recorded such appraisal shall have the effect of a judgment, and execution may issue at the end of sixty days from the time of such return, in favor of the persons respectively to whom damages may be appraised; and said appraisers shall be paid by said company for the time actually spent in making such appraisal and return; but no railroad shall be worked upon, or opened across any real estate, until the damages, appraised to any person interested therein, shall have been paid or secured to be paid to his satisfaction, or deposited with the treasurer of the county for his use.*

Railroad not to be worked until damages have been paid.

SEC. 21. When any real estate shall have been laid out for railroad purposes, and the damages shall have been appraised, and such road, or any part thereof, shall have been abandoned or discontinued before the same shall have been opened and worked, no such execution shall issue, nor shall an action be brought against said company for the recovery of such damages by any of the owners of land over which such road, or part of a road, shall have been laid out and discontinued as aforesaid; but any such owner may recover of such company the actual damage which he may have suffered in consequence of the laying out of such road, or from any unreasonable delay in opening and working the same.

1858.

Land owners to recover actual damages only, where road is discontinued.

SEC. 22. When any railroad company shall take any property for the purposes of its railroad, the owner of such property may at any time within three years thereafter demand in writing of the treasurer of the company a written description of the property so taken; and said company shall within thirty days deliver to him such description; and if it fail to do so, all its rights to enter upon or use said property, except for making surveys, shall be suspended until it shall have so delivered such description.

1849.

Owners may require a plan of land taken.

SEC. 23. Within ninety days after the railroad of any company shall have been laid out in any town and ap-

Corporation to deposit plan of road with town clerk.

* Owners of fee highway, on which a railroad is located, entitled to damages. 26 Conn., 249. Incidental injury, to adjacent land of same proprietor to be considered. 21 Conn., 294.

proved by the Railroad Commissioners, such company shall deposit with the town clerk a correct plan, signed by its president, of so much of said railroad as lies in said town, drawn upon a scale of at least five inches to the mile, upon which shall be accurately delineated the direction and length of each course, and the width of the land taken.

Location of road to be filed in Secretary's office.

SEC. 24. Every railroad company shall, within six months after the final location of its road, file a statement of such location, defining the courses and distances, with the Secretary of this State.

1870.
Security from contractors for paying laborers; liability of company therefor.

SEC. 25. Every railroad company in making contracts for the building of its road shall require sufficient security from the contractors for the payment of all labor thereafter performed in constructing the road by persons in their employ; and such company shall be liable to the laborers employed, for labor actually performed on the road, if they within twenty days after the completion of such labor shall in writing notify its treasurer that they have not been paid by the contractors.

1871.
Intersections or connections with other roads.

SEC. 26. Every railroad company may, if necessary in the construction of its railroad, cross or connect with any other railroad, and if it cannot agree with the managers of such other railroad as to the same, the Railroad Commissioners may determine the place and manner of such connection or crossing, after giving reasonable notice to the companies to attend and be heard; but no railroad shall cross any double track railroad at grade, except for the purpose of connecting therewith.

Contracts with connecting or intersecting roads.

SEC. 27. Any railroad company may make lawful contracts with any other railroad company, with whose railway its track may connect or intersect, in relation to its business or property, and may take a lease of the property or franchise of, or lease its property or franchises to, any such railway company; and may construct branches from the main line to any place in this State, subject to the provisions of this Part.

Branches.

1849.
Crossing highways or water courses.

SEC. 28. When it shall be necessary for the construction of a railroad to intersect or cross any water course not navigable, or any public highway, the railroad company may construct said railroad across or upon the same if the Railroad Commissioners shall judge it necessary; but said company shall restore said water course or highway, thus intersected, to its former state; or in a sufficient manner not to impair its usefulness; and in case any highway is so located that said railroad cannot be judiciously constructed across or upon the same, without interfering therewith, said company may, with the consent of said Commissioners, cause such

highway to be changed or altered, so that said railroad may be made on the best site for that purpose; but said company shall put such highway in as good situation and repair as it was previous to such alteration, under the direction of said Commissioners, whose determination thereon shall be final.*

SEC. 29. When any railroad company shall be authorized by the Railroad Commissioners to cross any stream of water, or water course, not navigable, or pond of water, an appeal shall be allowed to any interested person aggrieved by such permission, to any judge of the Superior Court, within twenty days after the owners of the land adjoining said stream, at the point of said crossing, shall have had actual notice of the manner in which said Commissioners have permitted said stream to be crossed; which appeal shall be by a suitable petition, in writing, for a hearing in regard to the crossing, with a citation attached thereto, returnable within twelve days after its date, and served at least five days before the return day, upon such company. And said judge shall have, for the purpose of disposing of said appeal, all the powers of the Superior Court, and may proceed, by himself or by committee, to a hearing in regard to the propriety of said manner of crossing; and may render a decree either establishing more and sufficient water way at the place of crossing, or providing such method of crossing that the usefulness and safety of said stream may be preserved, and that the safety of the public may not be endangered; or may confirm said mode of crossing; and if said alteration is so decreed, may award costs against said company; and if said mode of crossing is confirmed, may award costs against the appellants, and may issue execution in favor of either party for costs, to be taxed as in civil actions in court. Said appeal shall be a *supersedeas*, so far as said crossing is concerned, until judgment shall be rendered thereon by said judge.

1869.
Appeals from
order authorizing the crossing
of non-navigable streams.

Award of costs.

Appeal to be a
supersedeas.

SEC. 30. Every railroad company, which may locate and construct a railroad across any turnpike, highway, or public street, shall construct it so as to cross over or under the same; and may, under the direction of Railroad Commissioners, raise or lower the same, at said crossing, or change the location thereof; and shall make and maintain such bridges, abutments, tunnels, arches, excavations, embankments, and approaches, as the convenience and safety of the public travel upon said turnpike, highway, or street, may require; but the Railroad Com-

1849.
May change location or alter
level of roads,
intersected under
direction of
Commissioners.

* Determination of Commissioners cannot be reviewed by the Superior Court. 27 Conn., 146.

missioners may, upon due notice to said company, and to the selectmen of the town, or mayor of the city in which said crossing is situated, direct such company to construct its railroad at such crossing, upon a level with the turnpike, highway, or street.*

1865.
Warning boards
at grade cross-
ings.

SEC. 31. Every railroad company shall keep and maintain at each crossing at grade of any highway, at which there is no gate, warning boards of such a description as the Railroad Commissioners may approve.

1871.
Right of way for
highways for
railroads, how
obtained.

SEC. 32. When any highway or street shall be changed or altered by any railroad company with the consent of the Railroad Commissioners, and it shall be necessary to take any land for a highway to which such company has not obtained a title, and over which neither said company nor the town in which such change shall be made has any right of way, and said company is unable to agree with the owner thereof in regard to the amount of damages to be paid therefor, the same proceedings shall be had for the purpose of procuring the required right of way as are provided by the twentieth section of this Article, in regard to taking land for railroad purposes.

1869.
Covered bridges,
height of

SEC. 33. All covered bridges constructed on the line of any railroad shall be not less than eighteen feet in height from the top surface of the rail laid in the track on the bridge to the under side of the cross-beams overhead.†

1866.
Footways upon
railroad bridges.

SEC. 34. When in the opinion of the selectmen of any town, or of the Common Council of any city, a footway upon the line of any railroad bridge or causeway within the limits of such town or city would be of public convenience, and the railroad company owning such bridge or causeway shall not consent thereto, such selectmen or common council may call out the Railroad Commissioners, who, after due notice to such company, shall inquire into the facts, at the expense of such town or city. And if said Commissioners shall find that a footway along such bridge or causeway would be of public convenience or accommodation, they shall authorize such town or city to construct and maintain the same at their own expense, and to attach the same for support to such bridge or causeway: *provided*, such footway be constructed entirely outside of the bridge or causeway to which it is attached, and so constructed, used, and maintained as not to interfere with the necessary

* To what extent the company is bound to maintain approaches, &c. 39 Conn., 128.

† For the height required for bridges in highways over railroads, see Title XVI, Chapter VII, Part I.

and proper use of such bridge or causeway by such company.

SEC. 35. All railroad companies shall cause their road to be fenced within twelve months after they enter upon and take possession of the lands through which they pass. 1867.
Railroads to be
fenced within
twelve months.

SEC. 36. Every owner of land adjoining any railroad who, prior to the twenty-second day of June, 1850, received compensation for fencing along the line of land taken for the purposes of said railroad, shall build and maintain a lawful fence on said line, or as near thereto as he conveniently can; and if said owner, his heirs or assigns, shall not build said fence within sixty days after he shall have been notified to do so by said company, it may build the same and recover the expense thereof from the person so neglecting to build or maintain said fence. 1849.
Land owners,
when to fence
line.

Penalty for neg-
lect.

SEC. 37. Every railroad company, incorporated after the first Wednesday of May, 1850, shall erect and maintain sufficient fences on both sides of its railroad throughout its whole extent, except where in the opinion of the Railroad Commissioners the erection and maintenance of the same shall be inexpedient or unnecessary. 1850.
Companies to
fence, when.

SEC. 38. When any owner of land on the line of any railroad, in process of construction, or constructed, shall complain in writing to the Railroad Commissioners that the railroad company constructing or operating said road neglects or refuses to erect a suitable fence along said line, to his damage or inconvenience, they shall visit and examine the locality where said grievance is so alleged to exist; and if, in their opinion, there is just cause for said complaint, said Commissioners shall order said company to erect a suitable fence at said place, in such manner and within such time as they shall prescribe; and said order shall be served in writing on said company. 1865.
How compelled
to fence, on
complaint of
land owner

SEC. 39. Any railroad company which shall neglect or refuse to erect said fence in compliance with said order, shall forfeit fifty dollars for each day's neglect or refusal so to do; half to him who shall sue therefor, and half to the State. Penalty for neg-
lect to fence.

SEC. 40. When it is the duty of any owner of land to erect or maintain a fence, in any place along the line of any railroad in this State, and he shall neglect to erect or maintain a suitable fence in such place, if, in the opinion of the Railroad Commissioners, such fence is needed thereat, they shall give him notice in writing, that unless such fence shall be erected within a time specified in such notice, the railroad company, whose line is adjoining said land, will be required to erect such fence at his expense; Land owner,
how compelled
to fence.

and, if he shall not erect said fence within the time so limited in such notice, shall then notify said company of their action, and of the neglect of said owner, and give an order in writing to said company to erect such fence within such time as said order shall prescribe; and if said company, after being duly served with a copy of said order, shall neglect or refuse to comply therewith, it shall incur the forfeiture prescribed in the preceding section, to be recovered in the same manner.

Lien of company on land of owner neglecting to fence, for expenses.

SEC. 41. When any railroad company shall have incurred any expense in the erection of any fence, in compliance with the provisions of the preceding section, such expense, having first been ascertained and approved by the Railroad Commissioners, shall constitute a lien in favor of said company upon the land against which said fence is erected or repaired and adjoining and connected therewith, owned by the person whose duty it was to erect said fence; and said lien shall take precedence of every other lien or incumbrance upon said land, and may be foreclosed in the same manner as mortgage liens; but shall not continue in force, unless said company shall within sixty days after the completion of said fence, lodge a certificate with the town clerk of the town in which said land is situated, describing the premises on which said lien shall be claimed, and specifying the amount claimed as a lien thereon, and the date and commencement of said lien, which certificate shall be recorded in the land records of said town.

Certificate of lien to be filed with town clerk, and recorded.

1869.
Companies to fence next to highways.

SEC. 42. Every railroad company shall construct and maintain good and sufficient railings or fences on one or both sides of any part of its road, which is within the limits of any public highway or turnpike road, or adjoining thereto, when necessary for the safety of persons or property passing over such highway or turnpike; and the Commissioners shall examine and inquire into the necessity for the construction or repair of any fence or fences, or any part of said road, as aforesaid, when thereunto requested in writing by the selectmen of any town, or by the mayor of any city.

1871.
Companies to fence between railroad and highway, if uninclosed.

SEC. 43. Every railroad company shall construct and maintain good and sufficient railings or fences on one or both sides of its road, when the land between its line of right of way and any public highway or turnpike road is uninclosed and unfenced, when such railings or fences are necessary to prevent animals from passing from such public highway or turnpike road on to such railroad track; and if any person shall suffer any damage in his person or property by reason of the neglect of any railroad company in the premises, such company shall pay him just damages.

SEC. 44. It is the duty of any person to construct or maintain any such fence, the railroad company constructing or maintaining it may proceed and collect the expense thereof from such person in the manner provided in the fortieth and forty-first sections of this Article. Reimbursement by owner of land.

SEC. 45. Every railroad company shall construct suitable cattle-guards and fences therefrom at all crossings of passways or highways, to prevent cattle from passing upon its railroad except when the Railroad Commissioners deem it unnecessary.* 1850. 1874. Cattle-guards.

SEC. 46. When any railroad company shall neglect to construct any highway, or bridge, which it is its duty to construct, or to keep in repair any bridge, embankment, filling or abutment, which it is its duty to maintain, the State's attorney in any county, wherein such neglect exists, or in which the whole, or any part of said highway or bridge is situated, shall make complaint thereof to the Superior Court for such county, which shall proceed in the same manner against said railroad company as is required against towns neglecting to construct any road laid out by the Superior Court, or to keep in repair any public road within their limits, which it is their duty to construct or keep in repair. 1857. State's Attorney to complain if company neglect to repair highway.

IN ADDITION.

SECTION 1. It shall be the duty of every railroad company operating a railroad in the State, to cause a lawful fence to be erected and kept up on both sides of their railroad, at such place or places as the Railroad Commissioners shall judge that a fence is necessary. And it shall be the duty of the Railroad Commissioners to carefully examine the several railroads in this State, and to cause fences to be erected and kept up by the several railroad companies on both sides of their respective roads in such place or places as they shall adjudge fences to be necessary. 1875. Railroad companies to fence line of their road.

SEC. 2. In all cases wherein any railroad is not fenced as aforesaid, and where a fence shall be adjudged necessary by the Railroad Commissioners, and in all cases hereafter where fences shall not be kept up as aforesaid where said Railroad Commissioners shall adjudge the same to be necessary, it shall be the duty of the Railroad Commissioners to issue a written order to the secretary of any railroad company who shall so neglect to erect and keep up said fences, directing said railroad company to erect such fences within such time, as such Commissioners shall specify, which time shall not be less 1875. § Duty of R. R. Commissioners where the road is not fenced.

* Sec 37 Conn., 479.

than sixty nor more than ninety days from the date and service of said order, which order shall be served upon said secretary by leaving an attested copy thereof with said secretary, or at his usual place of abode, by an indifferent person, within six days from the making said order. Said order shall specify the place or places where said fence is, or where said fence is to be erected.

1875.
Penalty.

SEC. 3. If any railroad company shall fail to comply with any such order so issued to their secretary by said Railroad Commissioners as aforesaid, said railroad company shall forfeit and pay to the treasurer of the State of Connecticut, the sum of one hundred dollars per month for each and every month they shall neglect to comply with such order, recoverable in the name of said treasurer, in an action of debt founded on this statute. And it shall be the duty of said Railroad Commissioners to notify said treasurer of all such forfeitures, and it shall be the duty of said treasurer to collect said forfeitures without unnecessary delay.

1875.
Where it is the
duty of adjoining
land to make
the fence.

SEC. 4. Whenever by reason of previous contract or having received compensation therefor, or for any other cause, it shall be the duty of the owner of any land adjoining any railroad, to erect or maintain any fence between said land and the railroad, and such owner shall have unduly neglected to erect or maintain a sufficient fence, and the same shall have been erected by the railroad company in conformity to the order of the Railroad Commissioners, said railroad company may collect the costs of erecting and maintaining such fence or fences from the owners of the land where such fences shall be so erected, to be recovered in an action of debt on this statute. And the costs of erecting and maintaining said fence, so incurred by said railroad company, shall be a lien in favor of such railroad company, on the land adjoining said fences so erected, and said lien shall take precedence of every other lien or incumbrance upon said land, and may be foreclosed in the same manner as mortgage liens, but such lien shall not continue in force unless said company shall, within sixty days after the completion of said fence, lodge a certificate, with the town clerk of the town in which said land is situated, describing the premises on which said lien shall be claimed, and specifying the amount claimed as a lien thereon, and the date and commencement of said lien, which certificates shall be recorded by said town clerk in the land records of said town.

When fence is
to be main-
tained by the
company and
adjoining pro-
prietor.

SEC. 5. And whenever by contract, neither the owner of such land, nor the railroad company can oblige the other to erect or maintain such fence, or such owner has agreed not to require the railroad company to erect or

maintain such fence, and the same shall have been so erected or maintained by any company, by order of said Railroad Commissioners as aforesaid. said railroad company may collect one half the costs of erecting or maintaining the same from such owner, and the same shall be a lien on the land of such owner, as provided in the preceding section.

SEC. 6. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall not affect any suit or proceeding now pending, but such suit may be proceeded with, as if such acts had not been repealed.

4. DEPOTS.

SEC. 47. When the business center of any village containing two hundred inhabitants is more than one and a half miles from the nearest station on a railroad, and not more than one-third of a mile from said road, the Railroad Commissioners, upon the petition of twenty of said inhabitants, after due inquiry, may make such orders in regard to the stoppage of any of the trains upon said railroad, at or near said village, for the purpose of receiving and discharging passengers and freight, as they shall deem just and reasonable; and no railroad company, whose trains may be thus required to stop, shall charge more than five cents for each mile and fraction of a mile, for transporting passengers between such stopping place and the next station.

1866.

When railroad
trains shall stop
near villages.

SEC. 48. When twenty electors shall present their petition to a judge of the Superior Court, alleging that the managers of any unfinished railroad ought to establish a station at or near a place named, and that they have reason to fear that said managers do not intend so to do, he shall, after due notice to said managers, appoint a practical engineer skilled in the construction of railroads, who, after being duly sworn, shall, with the Railroad Commissioners, hear said petition, after due notice to all parties in interest; and if on such hearing said Commissioners concur with said engineer in finding such petition true, they shall in writing designate the place within the limits embraced in said petition, where said company would establish and maintain a suitable station; and said company shall establish and maintain said station at such place; if the Commissioners shall concur with said engineer in finding said petition untrue, they shall dismiss the same; and if said engineer shall not concur with said Commissioners, he and they shall each make a written report of the facts found by them, respectively, and of their respective opinions thereon, to said judge, who shall thereupon make such order as,

1865.

Stations, how
established.

Petition to be
dismissed if
found untrue;
engineer and
Commissioners
to make separate
reports, if
they disagree.

upon an examination of said reports, he may deem reasonable; and any order so made by him against said company shall be binding upon it.

Security for
compensation
of engineer.

SEC. 49. Said judge may at any time require said petitioners, on penalty of dismissal of their petition, to give such security as he shall order for the payment of such fees and expenses of said engineer as shall be taxed by him after due hearing of the parties thereon, which shall be paid by the petitioners; but, if said judge shall so order, the whole or a part thereof shall be refunded by said company to the petitioners.

1866.
Stations not to
be discontinued
without appro-
val of Commis-
sioners.

SEC. 50. No railroad company shall abandon any station on its road, in this State, after the same has been established for twelve months, except by the approval of the Railroad Commissioners, given after a public hearing held at such station, notice of which shall be posted conspicuously in said station for one month previous to the hearing.

Abandoned
stations, how
re-established.

SEC. 51. Any station on any railroad in this State, which was abandoned between the first day of January and the fourth day of July, 1866, shall, upon the petition to the Railroad Commissioners of thirty freeholders residing in the town where said station was located, be restored, upon the approval of said Commissioners given after a public hearing held at the station nearest to said abandoned station, and after notice of said hearing shall have been conspicuously posted at the place of hearing for one month previous to the hearing.*

1874.
Appeals from
Railroad Com-
missioners.

SEC. 52. Any person aggrieved by any order of the Railroad Commissioners made after the fourteenth day of August, 1874, upon any proceeding relative to the location, abandonment or changing of dépôts or stations, to which he was or ought to have been made a party, may appeal from the same to the Superior Court of the county in which the cause of appeal shall arise, within twenty days after the publication of such order, by a petition in writing, with a proper citation, signed by competent authority, to all parties to said proceedings having an interest adverse to him, to be served upon them at least five days before the return day; and said court may hear said appeal and re-examine the question of the propriety and expediency of the order appealed from, either by itself or a committee, and shall proceed thereon in the same manner as upon petitions in equity; and in case said order is not affirmed, may make any other order in the premises that it may deem proper; and may award costs at its discretion. Such appeal shall

* As to what constitutes a station, see 37 Conn., 153.

be a *supersedeas* of the order appealed from, until the final action of said court thereon, and said final order may be enforced by said court by attachment, *mandamus* or otherwise, as it shall deem proper.

SEC. 53. When any railroad company in this State shall refuse to stop any of its passenger trains at any station, and ten freeholders of the town in which such station is situated may make their application in writing to the Superior Court, and if said court is not in session, to any judge thereof, praying that said company may be ordered to stop the train or trains mentioned in said application at said station; to which application a citation shall be annexed, and the same shall be served upon such company at least six days before the return day named therein.

1868.
Application to
Superior Court
to compel com-
panies to stop
passenger trains
at dépôt.

SEC. 54. Said court, or judge, as the case may be, shall appoint a committee of three disinterested persons, who, being first duly sworn, shall hear and decide upon said application at such time and place, and with such notice to those interested as said court or judge shall order; and if said committee shall be of opinion that said application ought to be granted, they may order said company to stop its train or trains in the manner prescribed in said order, and make such other order as they shall deem just and reasonable, and shall make return of their doings to the next term of said court.

Hearing before
committee.

SEC. 55. Upon such return, either party may object to the acceptance of the same for irregularity or improper conduct, and the court for such cause may set it aside and order a rehearing; but if the court accept the same, it shall be conclusive, and said company shall obey said order.

Report of com-
mittee.

SEC. 56. Said order may be enforced by *mandamus*, and the costs of said proceedings may be taxed by said committee against either or both of said parties.

Order, how en-
forced.
Costs.

5. OBLIGATIONS OF AND TO COMPANIES.

SEC. 57. Every railroad company shall run its trains each way for passengers at such times and in such manner as to afford reasonable facilities for receiving passengers from, and delivering them to, the other railroads in this State, connected therewith; and when the business connections of the railroad of any company with the railroad of any other company are not convenient and reasonable for the accommodation of passengers over said road, said company shall make such connections as the public travel and business may require.

1859. 1864.
Companies to
afford each
other mutual fa-
cilities.

SEC. 58. Any person who shall be aggrieved by the neglect of any railroad company to make such connections, may prefer a petition against such company to any

1864.
How compelled
to make proper
connections.

judge of the Superior Court, who is not a resident of the county in which the grievance complained of exists, averring such neglect, which petition shall be served upon the respondents at least twelve days before it is made returnable; and said judge shall, by himself or by a committee, inquire into the allegations of the petition, after such notice of the hearing as he shall order, and, if the allegations in the petition are found to be true, shall order such company to make such connections, on penalty of forfeiting to the petitioner not less than fifty dollars for each day that it shall fail to comply with said order; and in such cases the judge may tax costs at his discretion, and issue execution therefor.

Hearing before
a committee.

Order.

Costs.

1859.
Trunk roads to
afford equal fa-
cilities to inter-
secting roads.

SEC. 59. When the railroad of any company, being a trunk road, shall, at or near the same place, connect with or be intersected by two or more other railroads, which are competing lines for the business to or from such trunk railroad, equal facilities, including price and rates, shall be afforded by the company operating said trunk road to each of said competing roads, in the interchange of cars and transportation of freight, as well as in ticketing passengers and checking baggage.

How to compel
such facilities
to be furnished.

SEC. 60. If any such competing railroad company shall at any time deem itself aggrieved in reference to such facilities, its managers may complain to the Railroad Commissioners, who, after due notice and hearing, shall prescribe such regulations as will, in their judgment, secure reasonable facilities for the accommodation of the business of each of said connecting railroads, and fix the terms on which such facilities shall be afforded by or to each of said railroad companies; and the Superior Court may compel the performance thereof, by attachment, *mandamus*, or otherwise, and the expenses of the proceedings shall be paid by said parties, as shall be determined on by said court.

1856. 1859.
Order by Rail-
road Commis-
sioners as to
connections to
be made.

SEC. 61. When it shall appear to the Railroad Commissioners, by the written complaint of the president, or a majority of the directors, of any railroad company in this State, or of a majority of the selectmen of any town through which any railroad passes, that the business connections of any other railroad connected with such railroad are not convenient and reasonable for the accommodation of the inhabitants on the line of such road, said Commissioners shall forthwith cause a notice to be given to all parties interested, specifying the time and place of hearing such complaint, and on such hearing, if good and sufficient cause exist, shall make such regulations in relation thereto as they shall deem proper; and any railroad company neglecting to comply with

such regulations shall forfeit to the State twenty-five dollars for each day of such neglect.

SEC. 62. Every person or corporation owning or operating any railroad, located wholly or in part within this State, which connects with any other railroad in this State, shall receive, and with reasonable despatch draw over the same, the passengers, merchandise, and cars of the person or corporation owning or operating such connecting railroad, and shall not in any manner discriminate as to time and price for such hauling against said connecting railroad, in favor of other shippers at said point of connection; and if any such person or corporation shall fail so to do, complaint may be made thereof by such connecting railroad to the Railroad Commissioners, who, after reasonable notice to such person or corporation complained of, shall, if, upon a hearing, they find the complaint true, order such person or corporation to receive and forward, as herein provided for, such passengers, merchandise, and cars as may be delivered to him or it by said connecting railroad.

1874.
All connecting
roads to have
equal facilities.

SEC. 63. Any person or corporation owning or operating any railroad, as aforesaid, refusing to conform to any order made, as aforesaid, shall be fined twenty-five dollars for each offense.

Penalty.

SEC. 64. Every railroad company shall provide its passenger, baggage, mail, and express cars with suitable platforms to secure the safety of persons passing from car to car, or connecting aprons or bridges, to the approbation of said Commissioners, except that freight or baggage cars need not be thus connected with the platform of a passenger car attached to a freight train; shall not allow any hand-car or other car not moved by steam, belonging to it, and used upon its railroad, when removed from the railroad track (except when placed in a building prepared for it), to remain within fifty feet of any road or highway crossing said track; shall, from the first day of May until the first day of November, annually, carry through each passenger car, once an hour, a suitable quantity of good drinking water for the free use of the passengers, with suitable appurtenances for carrying it, and a clean glass tumbler for using it; shall give each passenger, who shall be separated from his baggage by said company, a receipt or check for it at the time of receiving it; and shall conspicuously post on each passenger dépôt building the name of the station, and on each passenger car which leaves the *termini* of their own or any other road, a legible card, or cards, not less than three feet in length, with large letters, distinguishing

1866. 1867. 1872.
Connecting
aprons.

1866.
Hand-cars.

1864.
Water.

1848.
Checks.

1872.
Name of station.

1866.
Designation of way and express trains. way from express trains, and designating the direction in which the trains are next to move, unless such cards shall be dispensed with by the Commissioners.

1867.
Penalty for fraudulently evading payment of fare. SEC. 65. No person shall fraudulently evade, or attempt to evade, the payment of any fare lawfully established by a railroad company, and whoever does not, upon demand, first pay such fare, shall not be entitled to be transported over any railroad; but conductors or employees of railroad companies shall not put a passenger off from trains between stations.

1865.
Change in commutation fares. SEC. 66. No railroad company, which has had a system of commutation fares in force for more than four years, shall abolish or alter it, except for the regulation of the price charged for such commutation; and such price shall, in no case, be raised to an extent that shall alter the ratio, as it existed on the first day of July, 1865, between such commutation and the rates then charged for way fare, on the railroad of such company.

1873.
Transportation of milk. SEC. 67. Every railroad company shall transport milk for every person by the same trains and upon the same conditions as the milk of any other person is transported by it.

1856.
Certain employees to wear badges. SEC. 68. All the conductors, brakemen, and baggage-men, employed upon the passenger trains of any railroad company, shall wear, when on duty, in a conspicuous place, a badge denoting their respective duties, and the name of such company.

1849.
1865. 1867.
Being on car, platform, or grounds, or driving on track. SEC. 69. No person shall, without the permission of the managers of the railroad, be upon, or attach himself to any engine or car upon the track of any railroad, or occupy any part of the platform, or grounds of any railroad station, nor ride, drive, or lead any beast on said track, except for the purpose of crossing it.

Agents of companies to make complaint. SEC. 70. Any station agent of any railroad company, who shall know or have immediate information that any person has violated any provision of the preceding section, shall forthwith inform a grand juror of the town in which said offense shall have been committed.

Punishment. SEC. 71. Every person who shall violate any provision of the two preceding sections shall be fined not exceeding fifty dollars, or imprisoned not exceeding thirty days, or both.

1851.
Engines to have bell and whistle. SEC. 72. Every engine used upon any railroad shall be supplied with a bell of at least thirty-five pounds weight, and a suitable steam whistle, which bell and whistle shall be so attached to such engine as to be conveniently accessible to the engineer, and in good order for use.

SEC. 73. Every person controlling the motions of any engine, upon any railroad, shall commence sounding the bell or steam whistle attached to such engine when such engine shall be approaching, and within eighty rods of the place where said railroad crosses any highway at grade, and keep such bell or whistle occasionally sounding until such engine has crossed such highway; and the railroad company, in whose employment he may be, shall pay all damages which may accrue to any person in consequence of any omission to comply with the provisions of this section; and no railroad company shall knowingly employ any engineer who has been twice convicted of violating the provisions of this section.

Engineers to sound bell or whistle when crossing highway, &c.

Liability of corporation.

SEC. 74. No railroad company shall permit any person to drive any engine upon any railroad operated by such company unless he shall have first received a printed copy of this and the two preceding sections, and shall have made oath that he will faithfully comply with the provisions thereof.

Engineers to have copies of this law and be sworn to obey it.

SEC. 75. All railroad trains shall be brought to a full stop, at a distance not less than two hundred feet, nor more than eight hundred feet, from the draw in every draw-bridge, upon the line of the railroad over which they are to be run, and from every point where such railroad is crossed by another railroad, and in plain sight of the same, before being run upon or over such draw or crossing; but the Railroad Commissioners may in writing authorize the passing of any draw of any railroad crossing, without stopping as aforesaid, when, in their opinion, it can be done consistently with public safety.

1853. 1869. Trains to stop before passing draw-bridges or railroad crossing.

Commissioners may authorize passing without stopping.

SEC. 76. Every person running such a train, who shall violate the provisions of the preceding section, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding three months; and the president and directors of any railroad company, who shall knowingly permit any violation of the same, shall be fined five hundred dollars.

Penalty for violation.

SEC. 77. All trains which are obliged to come to a full stop before crossing any draw-bridge, shall, when the Railroad Commissioners shall so order, stop at the regular station, nearest to such draw-bridge, for a sufficient length of time to accommodate passengers who may desire to enter or leave said trains, if said station is in full view of said draw-bridge, and not more than one hundred and twenty rods therefrom.

1865. Passenger trains to stop at nearest regular station to a draw-bridge.

SEC. 78. No railroad company shall permit any passenger train to be run over any switch, at any railroad junction at different roads, or at any station where such

1853. 1856. Switches at railroad junctions.

train does not regularly stop, or is not then to be stopped, unless there be, at the time when such train shall arrive near such switch, a switchman standing at such junction switch, or the station switch so first approached, with a white flag by day, or a light at night, to indicate that such switches are in a proper position for the passage of such train; or unless, in the absence of such switchmen, said train shall be first brought to a full stop, at the distance of not less than two hundred feet, nor more than seven hundred feet therefrom; and every person who shall run a train over any such switch contrary to the provisions of this section, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding sixty days, or both; and the president and directors of any railroad company, who shall permit such train to be run over any such switch, contrary to the provisions of this section, shall be fined five hundred dollars; but the Railroad Commissioners may dispense with such switchmen, at any places.

Penalty for violation by engine-man.

Penalty for violation by president and directors.

1873.
When trains may pass switch, &c., without stopping.

Sec. 79. The Commissioners may permit passenger trains to be run past any switch, station, or highway crossing without stopping, at such rate of speed as they may prescribe, upon the provision by said company of such safeguards for the protection of its passengers and the public as said Commissioners may require; and for neglecting to make such provision, such company shall pay a fine of five hundred dollars.

1853. 1854.
Number of brakemen on train.

Sec. 80. Upon every train run, or intended to be run, upon any railroad in this State, at a greater average speed than thirty miles an hour, between stations, and consisting of more than two passenger cars, one brakeman shall be kept at the brake of each car; but when the double-action brake is used on any such train, but one brakeman need be kept upon and for every two cars connected with such train; and the Railroad Commissioners may grant permission to any railroad company to reduce the number of brakemen required upon passenger trains, when such company may have adopted a system of brakes to be operated by the engineer, which in the opinion of said Commissioners may render such number of brakemen unnecessary; but said Commissioners may revoke such permission when they consider the public safety requires; and on such revocation such company shall place upon its trains the number of brakemen required by law.

1853.
Companies to give notice to Commissioners of accidents.

Sec. 81. Every railroad company shall within twenty-four hours after the occurrence of any accident, attended with serious personal injury, give notice of the same to the Railroad Commissioners, in writing, who

upon receiving such notice, or upon public rumor of such accident, may repair, or dispatch one of their number to the scene of said accident, and inquire into the facts and circumstances thereof; and the Commissioners shall, without charge, furnish any person injured, or the friends of any person killed, any information they may have acquired in relation to any disaster, and the names of the persons from whom the same was obtained, or by whom the same may be proved.

6. BONDS AND MORTGAGES.

SEC. 82. Every railroad company may borrow money, and may secure the repayment of the same by its bonds, signed by its president, and countersigned by its treasurer; but before being issued, said bonds shall be registered in the office of the Controller, and a certificate thereof shall appear on the face of each bond; and the Controller shall cancel any bonds, so registered, which may be brought to him for that purpose, and enter said act of cancelling in his register; but no railroad company shall issue any bond of a less denomination than one hundred dollars, nor have bonds outstanding, at any one time, to a greater amount than one-third of the sum which its president and chief engineer shall certify, under oath, to the Controller, has been actually expended upon its road; and any false swearing in this matter shall be perjury; and the Controller shall not permit the bonds of any railroad company, registered in his office, and uncanceled, to exceed the amount limited in this section.* Such company may dispose of its bonds, as shall be authorized by its stockholders.

1842.
Corporation
may borrow
money, and
issue bonds.

1860. 1867.
May sell bonds.

SEC. 83. The company may secure said bonds by a mortgage of its property, or any part thereof, by deed duly executed by its president, under the corporate seal, to the Treasurer of the State, and his successors in office, in trust for the holders of said bonds, and recorded in the office of the Secretary of this State.

1849.
Railroad may
be mortgaged
to secure bonds.

SEC. 84. When any railroad company shall have mortgaged its property, or any part thereof, to any person, in trust, for the security of its creditors, or for the security of any class of them, and shall have made default in the payment of principal or interest, due to such creditors, any such creditor may prefer his petition to the Superior Court, in any county in which such railroad, or any part thereof, is located, setting forth such fact, and praying that such trustee may be placed in the

* Various points as to liability of railroad companies upon their bonds
26 Conn., 121.

possession of such property, for the benefit of such creditors; and such petition shall be heard and determined at the first term of the court to which it is returnable, unless continued for reasonable cause; and if the allegations therein are found true, such court shall decree that the said company and its president and directors, under a suitable penalty, shall surrender such mortgaged property to the trustee, for the benefit of such creditors.

1858.
Surrender of
road to mort-
gage trustees.

Limitation of
liability of
trustee in pos-
session.

SEC. 85. When any such trustee shall have taken possession of any property in pursuance of the provisions of the preceding section, or in pursuance of any authority contained in the mortgage or deed of trust, he shall take charge of, and operate, such railroad, or railroad property for the benefit of the creditors for whom such trust was created, and shall not be personally liable for any cause or injury arising from the operation of such road, or while he may operate it, except for his willful mismanagement, or for any contracts made by him as such trustee; but all such property shall be liable for the acts and proceedings of such trustee, in the execution of his trust, to the extent of the interest of the creditors, for whose benefit he may act; and any proceeding, for the purpose of making such property liable, shall be brought against such trustee, describing him as such.

Trust estate
liable for acts
of trustee.

Trustee to
make and re-
turn inventory.

SEC. 86. The trustee, upon taking possession of such property, shall make an inventory of all which may come into his possession under oath, and lodge it for record in the office of the Secretary of this State; and if any other property shall, from time to time, be discovered by him, he shall make and lodge a like inventory, under oath, as aforesaid.

Trustee to ren-
der quarterly
accounts to
Secretary.

SEC. 87. The trustee shall, from time to time, while operating such road, file his account, quarterly, in the office of the Secretary of this State, of all moneys received or disbursed by him, in the course of his agency; and may proceed at his discretion, in the Superior Court, in any county in which such railroad, or any part thereof, is located, to foreclose said railroad company, and all subsequent incumbrances, for the use of the bondholders, or other creditors for whom he acts; and such court may limit the time for the redemption of the mortgaged property, as in ordinary proceedings for the foreclosure of real property.

May foreclose
for the bond-
holders.

Superior Court
may remove
trustee for
cause, and ap-
point another.

SEC. 88. If such trustee shall neglect or unnecessarily delay to perform his duties, any creditor, represented by such trustee, may apply to any Superior Court aforesaid, for the removal of such trustee, which application shall be heard at the first term of said court; and upon such

facts being found true, such court may remove the trustee from his office, and appoint another in his stead, and may, upon the application of any such creditor, remove a trustee, and fill the vacancy.

SEC. 89. Nothing in the five preceding sections shall affect any mortgage, trust, or lien upon the property foreclosed, which was created prior to the mortgage, trust, or lien, under which said trustee may act; but the trustee for all such prior incumbrances may proceed, by foreclosure or otherwise, notwithstanding any act or proceeding by subsequent incumbrances, or their trustees.

Right of prior incumbrancers, not to be affected.

SEC. 90. When any such railroad is in the possession of an assignee, or trustee, he shall have the same rights, powers, and privileges as are conferred upon railroad companies; and all expenses and damages incurred by such persons so in possession, in good faith, to improve the lines of the railroads so in their charge, shall be reimbursed to them from the earnings of such railroad while they have the possession thereof.

1874.
Trustees to have the same powers, &c., as the corporation.

SEC. 91. The expenses of operating such railroad, or other property, including repairs and all other reasonable expenses of the trustee, and any damages incurred for any injury sustained during the time of his execution of said trust, and all claims secured by any prior mortgages or incumbrances, which shall have become payable before or during said time, and also a reasonable compensation to be allowed to the trustee, by the Superior Court, shall be deducted from the earnings of the road, before any part of such earnings shall be paid to the creditors.

1858.
Expenses of road, damages, compensation of trustee, &c., to be deducted from earnings.

In Addition.

SEC. 1. The mortgagees or trustees of any railroad lying in whole or in part in this State, who have, or shall hereafter come into the possession of the same, by virtue of any mortgage thereof, shall, within the first ten days of October, annually, so long as they remain in possession of said railroad, deliver to the Controller a sworn statement of the value of said road, its equipment, and other property, located in this State, and in their hands as such mortgagees or trustees. And the Board of Equalization shall have all the powers, in respect to such returns and values, which are conferred upon them in other cases by section eleven, chapter five, title twelve, of the General Statutes.

1875.
Trustees in possession of mortgaged railroad to make annual returns.

SEC. 2. Any person, whose duty it shall be to deliver the statement required by the preceding section, who shall fail so to do within the time prescribed, shall forfeit five hundred dollars to the State.

Gen. Statutes, p. 169.

Penalty.

Tax on such roads.

SEC. 3. Said mortgagees or trustees shall, on or before the twentieth day of October, in each year, or as soon thereafter as the earnings of said road, or other moneys in their hands, will allow, pay to the State a sum equal to one per cent. on the value of said road, equipment, and other property, less the amount of taxes paid by them on any real estate in their hands, not used for railroad purposes.

When a mortgaged road becomes the property of another corporation.

SEC. 4. In all cases in which the road and estate of any railroad company shall have been, or shall hereafter be, foreclosed under any mortgage executed by it for the security of its creditors, and any other railroad corporation shall have, or shall hereafter become, by purchase or otherwise, the owner of said road and estate so foreclosed, said corporation shall make the returns and payments required by sections five and six, chapter five, title twelve, of the General Statutes; and any funded or floating indebtedness, to which said railroad and estate is liable, shall be considered for the purposes of this act, as the indebtedness of said corporation, whether the same may have been contracted by it, or by some predecessor in its title.

Gen. Statutes, p. 168.

Lien on road for taxes.

SEC. 5. Any sums which shall become due to the State, for taxes under this act, shall rest as a lien on the road and property on account of which said tax is imposed, until the same shall be paid, and shall take precedence of any and all other liens and incumbrances whatsoever.

Title XVII, Article 4.

GENERAL PENALTY.

Penalty.

SEC. 1. Every person who shall violate any provision of this Part, for which no other penalty is prescribed or provision made, shall be fined not less than ten dollars nor more than five hundred dollars.

Title III, Chap. 4, Part 4.

1861.
Appointment of
railroad and
steamboat
police.

SEC. 2. The Governor may, from time to time, upon the application of any railroad or steamboat company, engaged in the business of transportation in this State, commission, during his pleasure, one or more persons designated by such company, who, having been duly sworn, may act at its expense as policemen upon the premises used by it in its business, or upon its cars or vessels. When any such commission is issued, or revoked, the Executive Secretary shall notify the clerk of

the Superior Court of each county in which it is intended that such policeman shall act.

SEC. 3. Every such policeman shall, when on duty, wear in plain view, a shield, bearing the words, "Railroad Police," or "Steamboat Police," as the case may be, and the name of the company for which he is commissioned.

SEC. 4. Every railroad or steamboat policeman may arrest in his precincts, for all offenses committed therein, and bring the offenders before proper authority.

Title XII, Chap. 5.

SEC. 5. The secretary or treasurer of every railroad company, any portion of whose road is in this State, shall, within the first ten days of January, annually, deliver to the Controller a sworn statement of the number of shares of its stock, and the market value of each share, the amount and market value of its funded and floating debt, the amount of bonds issued by any town or city of the description mentioned in the twelfth section of Chapter I of this Title, when the avails of such bonds, or stock subscribed and paid for therewith, shall have been expended in such construction, the amount of cash on hand the first day of said month, the whole length of its road, and the length of those portions thereof lying without this State, and also the number, name, and length of each of its branches lying in the State.

SEC. 6. Each of such railroad companies shall, on or before the twentieth day of January, annually, pay to the State one *per cent.* of the valuation of said stock, and funded and floating debt, and bonds, as contained in said statement, after deducting from such valuation the amount of cash on hand, and from said sum required to be paid, the amount paid for taxes upon the real estate owned by it and not used for railroad purposes; and the valuation so made, and corrected by the Board of Equalization, shall be the measure of value of such railroad, its rights, franchises, and property in this State, for purposes of taxation; and this sum shall be in lieu of all other taxes on its franchises, funded and floating debt, and railroad property in this State.

SEC. 7. When only part of a railroad lies in this State, the company owning such road shall pay one per cent. on such proportion of the above named valuation as the length of its road lying in this State bears to the entire length of said road. But in fixing the aforesaid valuation and lengths, neither the value nor length of any branch thereof in this State, which the Board of

1864.
1869. 1871. 1876.
Return by railroad companies.

1864. 1868.
1867. 1876.
Amount of tax to be paid by railroad companies.

1864. 1876.
Tax on railroad of which only a part lies in the State.
Gen. Statutes, p. 168.

Equalization shall determine to be of less value per mile than one-fourth of the average value per mile of the trunk road, shall be included; but every such branch shall be estimated at its true and just value by the Board of Equalization, and such railroad company shall pay to the treasurer of this State one per cent. on such value, at the time fixed in the next previous section for the payment of other railroad taxes; and when any such sum becomes due, and such company shall not then have the management and control of its road, or the road bearing its name, the person or corporation then owning or managing such railroad shall pay such sum to the State within the time above prescribed.

1862.
Lessee of rail-
road may de-
duct taxes from
rent.

SEC. 8. The taxes paid by the lessee of any railroad, under any contract or lease, existing on the tenth day of July, 1862, may be deducted from any payment due, or to become due to the lessor, on account of such contract or lease.

In Addition.

1875.
Lien on rail-
roads for taxes
due the State.
Gen. Statutes,
p. 168.

Any and all taxes which shall become due to the State, from any railroad company, under sections five, six, and seven, of chapter five, title twelve of the General Statutes, shall be and remain a lien on the road and estate of said company, until such taxes are paid, and shall take precedence and priority of any and all other incumbrances whatsoever.

Title XVI, Chap. 7, Part 1.

1870.
Laying out
highways across
railroads.

SEC. 6. No highway shall be laid out or constructed across and upon a level with any railroad, unless the Railroad Commissioners, upon written application of the party proposing to lay out or construct such highway, and after giving to said party, and to the company whose railroad it is so proposed to cross, reasonable notice in writing of the time and place when and where they may be heard thereon, allow said crossing; and if they, upon such hearing, shall disallow it, they shall further determine whether said highway shall cross over or under said railroad; and half of the expense of said crossing shall be borne by said railroad company, which, upon the completion of said highway and crossing, shall pay the same to the party entitled thereto.

Expenses of
maintaining
bridge at rail-
road crossing.

SEC. 7. If said highway shall cross over said railroad, the structure necessary therefor shall be maintained and kept in repair by the party bound to maintain said highway; but if it shall cross under said railroad, such structure shall be maintained and kept in repair by said company.

SEC. 8. The bottom timbers of all bridges, hereafter constructed over any railroad track, shall not be less than eighteen feet above the rails, unless the Railroad Commissioners require a less height and prescribe the same in writing.

1871.
Height of rail-
road bridges.

SEC. 9. The party bound to maintain any bridge or road shall erect and maintain a sufficient railing or fence on the side of such bridge, and of such parts of such road as are so made or raised above the adjoining ground as to be unsafe for travel; and whoever shall suffer damage in his person or property, by reason of the want of any such railing or fence, may recover damages from such party.

1801.
Railings to be
erected on roads
and bridges.

SEC. 10. Any person, injured in person or property, by means of a defective road or bridge, may recover damages from the party bound to keep it in repair; but no action for any such injury, received subsequent to the seventh day of July, 1874, shall be maintained against any town, city, or borough, unless written notice of such injury, and of the time and place of its occurrence, shall, within sixty days thereafter, be given to a selectman of such town, or the clerk of such city or borough; and when the injury is caused by a structure legally placed on such road by a railroad company, it, and not the party bound to keep the road in repair, shall be liable therefor.

1862.
Liability for
defective high-
ways or bridges.

1874.

1869.

SEC. 36. The Superior Court of the county in which is any highway, or any portion thereof, taken by any other than a horse railroad company for railroad purposes but not in a city, nor constructed since such railroad, may, upon the petition of any party interested, served upon said company as other civil process, appoint a committee of three to inquire whether such highway or portion thereof is unsafe for travel by reason of such railroad, or whether any alteration of such highway or the construction of a new highway is thereby rendered necessary for the public safety and convenience; and such committee shall hear said parties and report their opinion thereon to said court, which may make any proper order in the premises; and if it shall order any such alteration or construction, and said company shall refuse to comply with such order, said town shall alter or construct such highway and may recover the expense thereof from said company.

1866.
Proceeding to
alter a highway
taken by a rail-
road company.

Title XVII, Chap. 1.

SEC. 11. No person shall vote at any meeting of the stockholders of any bank or railroad company, by virtue of any power of attorney not executed within one year next preceding such meeting; and no such power shall be used at more than one annual meeting of such corporation.

1831. 1852.
Proxies, limita-
tion of.

Title XVIII, Chap. 6, Part 1.

1846.
Right to land
within limits of
railroad or ca-
nal, not granted
by possession.

SEC. 20. If the owner or occupant of any land, adjoining any railroad or canal, has, since the tenth day of June, one thousand eight hundred and thirty-one, taken, or shall take, into his enclosure any part of the land belonging to said railroad or canal, as located and established, or since that time, has erected, or shall erect, any building upon any such land, no adverse possession of the land so enclosed or built upon shall confer any title thereto.

Title XVIII, Chap. 7.

1871.
Lien on railroad
for services or
materials fur-
nished for its
construction.

SEC. 13. Every railroad for the construction of which, or of any of its appurtenances, any person shall have a claim for materials furnished or services rendered under any contract with or approved by the corporation owning or managing such railroad, shall with its real estate, right of way, material, equipment, rolling stock, and franchise, be subject to the payment of such claim; and said claim shall be a lien on said railroad, railroad property, and franchise, and the manner of asserting and perfecting such lien, by notice, certificate and foreclosure, shall be in all respects in accordance with the provisions of the four preceding sections of this Chapter; except that the certificates of the lien and of its discharge shall be filed in the office of the Secretary of this State, who shall record them in a book kept for that purpose.

Title XVIII, Chap. 9.

1854.
1858. 1864.
If not perish-
able, how dis-
posed of.

SEC. 2. All goods of a nature not perishable, left with any person, or upon any public wharf or highway, and all goods, other than personal baggage of passengers, left at any railroad station, or in any railroad car, or carriage, the owner of which goods is unknown, or neglects to take them away for six months from the time when they were left, shall be advertised one month in a newspaper published in the county where such goods were left; and if the owners thereof shall not take them away within said month, may be sold, and the proceeds disposed of, in the manner provided in the preceding section, except that such proceeds, not claimed by the owner within one year, shall escheat to the State.

Title XVIII, Chap. 11, Part 2.

1858.
Trustee may re-
lease interest of
a railroad cor-
poration, when.

SEC. 20. The trustee of any railroad corporation, whose estate is in settlement as an insolvent estate, may, if the assets of such estate shall not otherwise be sufficient to pay the claims allowed by the commissioners,

and the expenses of settling the estate, release, subject to any prior existing lien or title, to any proprietors of land any right of way or other incumbrance which said corporation may have in or upon the same, upon such terms as shall be approved by the Court of Probate.

Title XIX, Chap. 2.

SEC. 45. In any action brought against the president and directors of a railroad company for a forfeiture incurred under the provisions of Part IX, Chapter II of Title XVII, service of the writ upon such of them as are inhabitants of this State, or as may be found therein by the officer serving the same, shall be sufficient notice to maintain the suit against all the defendants.

1853. 1856.
Service on non-
resident rail-
road directors.

Title XIX, Chap. 6.

SEC. 8. No action to recover damages for injury to the person, reputation or property of the plaintiff, or to the person of his wife, child or servant, shall abate by reason of his death; but his executor or administrator may enter and prosecute the same in the same manner as is provided by law in other actions; and if there be two or more plaintiffs, and one or more of them shall die before final judgment, such action shall not abate, but, such death being suggested on the record, the action shall proceed.*

1853.
1869. 1874.
Limit and dis-
tribution of
damages.

1836. 1848.
What actions of
tort survive.

Title XIX, Chap. 11.

SEC. 29. In all actions to recover for any injury occasioned by fire communicated by any railway locomotive engine in this State, the fact that such fire was so communicated shall be *prima facie* evidence of negligence on the part of the person or corporation who shall, at the time of such injury by fire, be in the use and occupation of such railroad, either as owner, lessee, or mortgagee, and of those who shall at such time have the care and management of such engine.

1850.
Fire communi-
cated by railway
engine.

Title XIX, Chap. 16.

SEC. 25. The levy of executions on the equitable rights or interest which any railroad corporation may have in the whole, or any part of the real estate, right of way, or roadbed of any other railroad corporation, together with the income, rents and profits which may be due or coming due thereon, shall be by leaving a true and attested copy thereof with the treasurer, secretary or clerk of said last named corporation, with an attested certifi-

1856.
Levy of interest
of one railroad
company in
road of another.

* Death of plaintiff after verdict will not prevent rendition of judgment, though the action cannot survive. 18 Conn., 207, 208.

cate by the officer making such levy, that he levies upon such right or interest to satisfy such execution; and thereupon he shall post the same upon some sign post in the town where such last corporation has its office or principal place of business in this State, and as in cases of personal property, shall, at vendue, sell the same, together with such income, rents, and profits, or so much of them as shall be sufficient to satisfy said execution, and shall give to the purchaser a written conveyance of such right and interest, and shall also leave with such treasurer, secretary or clerk, a true and attested copy of such execution, and of his return thereon; and the purchaser shall thereupon become entitled to said right and interest, and to all rents, profits and income thereon, which such debtor was entitled to.

Title XIX, Chap. 18.

1865. 1867.
Suit against
railroad com-
pany for loss
of life.

SEC. 14. No suit against a railroad company for damages for the loss of any life, shall be brought by the executor or administrator of the deceased person, except within eighteen months from and after the death of such person.

Title XX, Chap. 2.

1801. 1846.
1873.
Homicide when
punished by
death.

SEC. 2. Every person who shall commit murder in the first degree, or who shall cause the death of another by willfully placing any obstruction upon any railroad, or by loosening, taking up or removing any part of the superstructure of such railroad, or by willfully burning any building or vessel, shall suffer death.

1853.
Loss of life,
&c., by intoxi-
cation of ser-
vants of railroad
company.

SEC. 5. Every servant of any railroad company who shall, in consequence of his intoxication, or any gross or willfull misconduct or negligence, cause and loss of life, or the breaking of a limb, shall be imprisoned in the State prison not more than ten years.

Title XX, Chap. 4.

1852. 1873.
Placing obstruc-
tions on rail-
roads.

SEC. 1. Every person who shall willfully place any obstruction upon any railroad, or who shall loosen, tear up, or remove any part of a railroad, shall be imprisoned in the State prison not more than ten years; and if he shall do the same with intent to throw any locomotive or car from the track of such railroad, or to obstruct any car in motion, he shall be imprisoned in such prison not more than thirty years.

1871.
Injury to elec-
tric signals on
railroads.

SEC. 2. Every person who shall willfully displace any switch upon any railroad, or injure or destroy any electric signal in use thereon, or any material or property appertaining thereto, or who shall interrupt the use of

any wire, lever, pin, or battery, used to operate such signal, or its connection therewith, shall be fined not more than one thousand dollars, and imprisoned in the State prison not more than ten years.

SEC. 27. Every person who shall willfully throw or shoot any missile at any locomotive or railroad car, whereby the safety of any person is endangered, shall be fined not less than fifty dollars, nor more than five hundred dollars, or imprisoned not more than one year, or both.

1873.
Throwing missiles at railroad trains.

SEC. 28. Every person who shall willfully injure any engine or car, used upon any railroad, shall be fined not more than one hundred and fifty dollars, or imprisoned not more than one year, or both.

1852.
Injuring railroad engines, &c.

SEC. 29. Every person who shall cast, empty, or discharge, or permit to be cast, emptied, or discharged, any filth, rubbish, foul or offensive wash, or water, or the contents of any privy, vault, cesspool, or sewer, upon or into any railroad or railroad depot in any city, shall be fined not more than fifty dollars, half of which shall be paid, by order of court, to the person furnishing to the proper officer information that leads to a conviction.

1866.
Nuisances on railroad tracks, or in depots.

SEC. 30. Every person who shall commit any nuisance in or upon any railroad bridge, shall be fined not more than seven dollars, or imprisoned not more than thirty days, or both.

1869.
Committing nuisances on railroad bridges.

Title XX, Chap. 11.

SEC. 8. Every person who shall fraudulently evade, or attempt to evade, the payment of any fare lawfully established by any steamboat company located in this State, or by any railroad company, shall be fined not less than five nor more than twenty dollars.

1867. 1871.
Fraudulent evasion of payment of fare.

Title XX, Chap. 12.

SEC. 7. Any railroad company, which shall neglect to maintain suitable water-closets at each passenger station upon its railroad, for the use of passengers, shall forfeit one hundred dollars.

1867.
Neglect of railroad companies to provide water-closets.

SEC. 41. Every railroad company, which shall willfully refuse to transport milk for any person according to law, shall forfeit twenty dollars.

1873.
Neglect by railroad company to transport milk.

SEC. 42. The forfeitures imposed by the four preceding sections shall be paid to him who shall sue therefor.

To whom penalties under four preceding sections are payable.

SEC. 45. Any railroad company, which shall refuse to give a receipt to the owner or shipper of any commodity, delivered to it for transportation, describing such commodity, shall forfeit to such owner or shipper fifty dollars.

1867.
Neglect of railroad company to give receipts.

Title XX, Chapter 13, Part 2.

1867.
Jurisdiction of
offenses on cars
or steamboats.

SEC. 3. All persons, arrested by railroad or steamboat policemen, for offenses committed upon cars or steamboats when in motion, may be prosecuted before any court, in the same manner as if such offenses had been committed in the town in which such court is held.

An Act in relation to Lands.

1875.
Effect of deeds
given by rail-
road companies.

Whenever any railroad company shall make and properly execute a deed in fee simple of any lands which said company has derived by purchase, said deed by said railroad company shall effectually convey the title to said land, and when by said company so conveyed shall be to the absolute use of the grantee.

In Addition.

1876.
How a railroad
company may
be relieved of
an easement re-
served in a deed
to them, in
some cases.

SEC. 1. Whenever any grant or conveyance to any railroad company of any parcel or parcels of land or right of way, reserves any right, title, interest, easement, or privilege in such land, or subjects such company to special conditions or covenants, which reservations, conditions, or covenants may interfere with said company furnishing reasonable and proper dépôt accommodations to the public, and such company cannot agree with the party or parties in interest as to the compensation or damages to be paid for the release of such reservation, condition, or covenant, then such company may, with the approval of the Railroad Commissioners first had and obtained, condemn such reservation, condition, covenant, or restriction in the same manner as is provided for taking, appraising, and paying for land in section twenty, of part nine, chapter two, of title seventeen, of the General Statutes of this State.

Gen. Statutes,
p. 321.

Pending suits
not affected.

SEC. 2. This act shall not affect any suit now pending.

In relation to Private Crossings.

1876.
Penalty for neg-
lect to secure
private way
opening on rail-
road.

Whoever enters upon or crosses a railroad at any private way, which is closed by gates or bars, and neglects to securely close them, shall forfeit for each offense a sum not less than two nor more than ten dollars, and shall be liable for any damage resulting therefrom.

In relation to Highway Crossings.

1876.
Provision for
safety of high-
way at railroad
crossing.

SEC. 1. The selectmen of any town within which a highway crosses or is crossed by a railroad, or the directors of any railroad company whose road crosses or is

crossed by a highway, may bring their petition in writing to the Railroad Commissioners, therein alleging that public safety requires an alteration in such crossing, its approaches, the method of crossing, the location of the highway or railroad, or the removal of obstructions to the sight at such crossing, and praying that the same be ordered. Whereupon the Railroad Commissioners shall appoint a time and place for hearing the petition, and shall give such notice thereof as they judge reasonable, to said selectmen, the railroad company, and to the owners of the land adjoining such crossing, and after such notice and hearing, said Commissioners shall determine what alterations or removals shall be made, by whom done, and at whose expense.

SEC. 2. In case the party by whom the changes are to be made cannot agree with the owner of the land or other property to be removed or taken under the said decision of the Railroad Commissioners, the damages shall be assessed in the same manner as is provided in case of land taken by railroad companies. The expense of such assessment to be paid in the same manner as the expense of the alterations. Assessment of damages.

SEC. 3. The decision of the Commissioners shall be communicated to the selectmen, to the railroad company, and to the owners of any property directed to be removed or taken, within twenty days after final hearing, and any person aggrieved by such decision may appeal therefrom in the same manner and with like effect as is provided in the case of appeals from any order of the Railroad Commissioners upon any proceedings relative to the location, abandonment, or changing of dépôts or stations. Appeal.

In Addition.

That all the provisions of chapter thirty-six, entitled An Act in regard to railroad crossings, of the acts of 1876, applying to selectmen of towns, in regard to highways crossing or crossed by railroads, be, and the same are hereby extended to mayors and common councils of cities, and to the warden and burgesses of boroughs, in regard to streets crossing or crossed by railroads. 1877.
Provision for safety of highway at railroad crossing.

Taxation of Dwelling-Houses belonging to Railroad Companies.

That any dwelling-house belonging to any railroad company shall be set in the list and be liable to taxation in the town where said dwelling-house is situated, notwithstanding the fact that the same may be rented to, or occupied by, an employee of said railroad company; and 1877.
Taxation of dwelling-houses belonging to railroad companies.

the amount paid for taxes on any such dwelling-house or houses, shall be deducted from the sum required by law to be paid by such railroad company for taxes to the State.

Concerning Railroad Mortgages.

1877.
Mortgages of
railroad prop-
erty.

Whenever any railroad company has mortgaged, or shall mortgage its railroad, pursuant to law, to secure its bonds, and has included, or shall include in said mortgage all or any part of its rolling stock, locomotives, and cars, whether those owned by it at the date of said mortgage, or those thereafter to be acquired by it for use upon said railroad, or both, such mortgage shall be deemed valid and effectual, as respects all the property therein included as aforesaid; and may be foreclosed in the same manner as ordinary mortgages of real estate; and the record thereof in the office of the secretary of this state shall be a sufficient record and notice to protect the title under the mortgage, notwithstanding such company may remain in possession of all or any part of the mortgaged property.

ANNUAL RETURNS.

1876.
Annual returns
of railroad com-
panies, when to
be made.

SECTION 1. The annual returns made by the several railroad companies, and by trustees operating a railroad, shall be made to the Railroad Commissioners on or before the first day of November; and the Railroad Commissioners shall make their report to each General Assembly not later than the second week of its session.

Repeal, Gen.
Stat., pp. 321,
338.

SEC. 2. So much of the seventeenth and of the ninety-third sections of article two, part nine, chapter two, title seventeen of the general statutes as are inconsistent with this act, are hereby repealed.

In Addition.

1873.
Form of rail-
road returns.

SECTION 1. The railroad commissioners shall, on or before the first day of September, annually, furnish to the company or trustees operating each railroad, duplicate blank forms for returns, as follows:

Return of the _____ Railroad Company for the year ending September 30, 18—.

EARNINGS AND EXPENSES.

Statement of Gross Earnings.

From passenger transportation,
“ freight transportation.
“ United States mails.

From express.

“ rents.

“ other sources (specifying each).

Total gross earnings.

STATEMENT OF OPERATING EXPENSES.

For repairs of road-bed and track.

“ “ bridges.

“ “ fences.

“ “ buildings and fixtures.

“ “ locomotives.

“ “ cars.

“ “ machinery and tools.

“ salaries and labor, not included above.

“ fuel for locomotives and { — tons of coal, \$
cars, - - - } — cords of wood, \$

“ fuel for stations and { — tons of coal, \$
shops, - - - } — cords of wood, \$

“ oil and waste.

“ damages, losses, and gratuities, { to persons, \$
to property, \$

“ insurance.

“ rents of other roads (naming each).

“ other operating expenses (in detail).

Total operating expenses.

Net earnings (or deficit).

TOTAL RECEIPTS AND EXPENDITURES.

Statement of Receipts from all Sources.

Cash on hand at date of last report.

Bills and accounts receivable at date of last report.

Receipts from gross earnings, as stated.

“ “ other sources (specifying each).

Total.

Statement of Total Expenditures.

For operating expenses (as stated).

“ taxes.

“ interest.

“ dividends—number, — ; rate per cent. — ;
date when paid.

“ construction, equipment, or property account, giving
each separately.

“ any other purposes (in detail).

Bills and accounts receivable this date.

Cash on hand to balance.

Total.

GENERAL BALANCE SHEET,

Showing condition of accounts at close of business, September 30, 18—.

Assets.

Construction account.
 Equipment account.
 Other permanent investments (in detail).
 Sinking fund.
 Materials on hand.
 Accounts receivable.
 Other assets (in detail).
 Cash on hand.
 Total.

Liabilities.

Capital stock.
 Bonds payable, or funded debt.
 Bills payable, or unfunded debt.
 Accounts payable.
 Other liabilities (in detail).
 Profit and loss.
 Total.

Present or Contingent Liabilities, not included in Balance Sheet.

Bonds guaranteed by this company, or a lien on its road.
 Over-due interest on the same.
 Over-due interest on bonds issued by this company.
 Any other liabilities.

GENERAL INFORMATION.

Capital Stock.

Capital stock authorized by charter.
 " " by vote of company.
 " issued, — full shares of \$—— each.
 " " — shares subject to \$——
 further assessment.

Amount credited on — shares not issued.

Stock issued for cash.
 Stock issued for bonds.
 Stock issued for stock of other corporations (naming such corporations).
 Stock issued for undivided earnings.
 Stock issued for increased valuation of road, or equipment, or both.

Stock issued without any payment thereon or in any manner, or for any purpose not named above, stating the amount in each case separately, and including the remainder of the stock issued.

Amount of stock held in Connecticut.

Number of stockholders residing in Connecticut.

Whole number of stockholders.

Bonds or Funded Debt.

Describe all issues in the following manner (and if any bonds issued by other parties have been guaranteed by this company, or are a lien on its road, describe them in the same manner, and state also by whom issued), viz. :

First mortgage due ———. Rate of interest, ———

Interest paid to ———.

Description of Road.

Date when road or different portions thereof were opened for public use, viz. :

From ——— to ———.

In
Conn. Total.

Length of main line from ——— to ———

“ branches and names from ——— to ———

“ all branches.

“ road (main line and branches) owned
by the company.

“ double track road, { in main line ———
in branches ———

“ sidings or other tracks not included above.

“ track of road, including branches and
sidings, in single track miles.

“ track laid with steel rails (weight per
yard, ——— lbs.).

Weight per yard of iron rails in main line, ———
lbs.

Weight per yard of iron rails in branches, ———
lbs.

Miles of track laid with steel rails during the year
(No. of tons, ——— ; weight per yard, ———
lbs. ; cost, \$——).

Miles of track laid with new iron rails during the
year (No. of tons, ——— ; weight per yard,
—— lbs. ; cost, \$——).

Number of new ties put in track during the year
(cost \$——).

Aggregate length of wooden bridges, in feet.

Number of spans of 25 feet or over.

Aggregate length of iron bridges, in feet.

Number of spans of 25 feet or over.

Aggregate length of stone arch bridges, in feet.

Number of highway crossings over the track.

“ “ “ under the track.

“ “ “ at grade.

“ “ “ “ with gates.

“ “ “ “ “ flagmen.

“ “ “ “ “ electric

signal.

Number of railroads crossed at grade and names of each.

Name, termini, and length of each road operated by this company under lease or contract.

Length of all roads operated by this company.

Number of stations on main line.

“ “ branches.

“ “ leased lines.

Equipment.

Number of locomotives (not including switching engines).

Average weight of same, including tender, water, and fuel.

Number of switching engines.

Number of passenger cars.

“ baggage and mail cars.

“ merchandise cars.

“ coal, gravel, and other cars.

“ locomotives equipped with train brakes.

“ cars “ “ “

Name of brake.

Number of passenger train cars with patent platform, buffer, and coupler.

Name of patent.

Fares, Freight, &c.

Average rate per mile received from passengers on roads operated by this company, excluding season ticket passengers.

Average rate per mile for season ticket passengers, reckoning one round trip per day to each ticket.

Average rate of fare per mile from all passengers.

Total number of passengers carried.

Passenger mileage, or passengers carried one mile.

Miles run by passenger trains.

“ “ freight trains.

“ “ all other trains.

Total miles run.

Total number of tons of freight carried.

Freight mileage, or tons carried one mile.

Average rate of freight per ton per mile.

Number of men employed in operating road, including officers.

Statement of each accident, in detail.

Names and residences of officers.

Proper address of the company.

SEC. 2. All companies or trustees receiving such blank forms shall return one of them to the commissioners, on or before the first day of November in each year, with all questions fully answered, except where the answers would be "none" or "nothing," in which case the question itself may be stricken out. Said returns shall be signed and sworn to by the president and treasurer of the company, or by a majority of the trustees making the same. Returns, how and when made.

SEC. 3. Every company whose president and treasurer or trustees shall refuse or neglect to make such returns shall forfeit to the State twenty-five dollars for each day of such neglect or refusal, and said commissioners shall report such forfeiture to the treasurer, and the books of every railroad company shall at all times be open to the inspection of any committee of the general assembly appointed for that purpose. Penalty for neglect.

SEC. 4. Every railroad company shall make its annual returns strictly according to the forms provided, and if the officers or trustees find it impracticable to return all the items in detail as required, they shall in their report give the reasons why they cannot be given; but no company shall be excused for not giving such details because it does not keep its accounts in such manner as will enable it so to do. And when any such returns seem to said commissioners defective or erroneous, they shall notify the company or trustees making the same, and require the amendments of such returns within fifteen days under the same penalty as is provided for refusing or neglecting to make returns. Books to be open to inspection of committee of general assembly.
Returns to conform strictly to prescribed schedule.

SEC. 5. All acts and parts of acts inconsistent with this act are hereby repealed. Repeal.

INCREASE OF CAPITAL STOCK.

SECTION 1. Whenever any railroad company shall desire to increase its capital stock, it shall make application to the railroad commissioners in writing, setting forth the amount to which and the purpose for which it is desired to make such increase. Whereupon the commissioners shall fix a time and place for hearing such 1878.
Proceedings by railroad company desiring to increase its capital stock.

application, and require such notice thereof to be given as they shall deem reasonable.

Finding of facts, report and recommendation by R. R. Commissioners.

SEC. 2. The commissioners shall make a finding of all the essential facts presented to them in regard to such proposed increase of capital stock, and report the same to the next session of the general assembly, with a recommendation whether such increase should be allowed or not, and if allowed, the manner in which and terms upon which such stock should be issued.

Capital stock not to be increased by R. R. Co. without special authority.

SEC. 3. No railroad company shall increase its capital stock except by special authority of the general assembly, nor shall such authority be given except upon the recommendation of the railroad commissioners as herein provided.

This act operative without special acceptance.

SEC. 4. It shall not be necessary for the provisions of this act to be accepted by any railroad company before the same shall become operative as an amendment to the charter of such company.

Repeal.

SEC. 5. All acts and parts of acts inconsistent herewith are hereby repealed.

ADDITIONAL PROTECTION TO BRIDGES, TRESTLES, AND PILINGS.

1878.
Guard rails to be placed on railroad bridges.

SECTION 1. Whenever the railroad commissioners shall deem it necessary for the safety of persons traveling upon any railroad in this State, that guard-rails or any other appliances to secure safety should be placed upon any bridge belonging to such railroad, said commissioners may order the corporation owning or operating such railroad to place such additional guards upon said bridge as they may deem necessary and proper to accomplish the object aforesaid.

Penalty.

SEC. 2. Any railroad company which shall neglect or refuse to comply with the orders of the railroad commissioners, given in pursuance of section one of this act, shall forfeit and pay to the treasurer of this State twenty-five dollars per day for each day of such neglect or refusal.

RAILROAD BRIDGES AND BRIDGE GUARDS.

1878.
Railroad companies to erect bridge guards.

SECTION 1. Every railroad corporation shall, within six months from the passage of this act, if required by the railroad commissioners, erect and thereafter maintain suitable bridge guards at every bridge over its railroad less than eighteen feet in height above the track; such bridge guards to be approved by the railroad commissioners, and to be erected and adjusted to their satisfaction.

SEC. 2. Any railroad corporation refusing or neglecting to comply with the provisions of this act, shall, for each month of continuance in such refusal or neglect, forfeit and pay to any person who shall sue therefor, the sum of fifty dollars, to be recovered in an action of debt on this statute. Penalty for neglect.

IN RELATION TO DAMAGES.

SECTION 1. In all actions by an executor or administrator for injuries resulting in death from negligence, such executor or administrator may recover from the party legally in fault for such injuries, just damages not exceeding five thousand dollars, to be distributed as is provided in section nine, chapter six, title nineteen, of the general statutes, revision of 1875: *provided*, that no action shall be brought upon this statute but within one year after the neglect complained of; *and provided, further*, that if suit for the injuries caused by such neglect shall be pending when the death occurs, and the executor or administrator of such deceased person shall enter and prosecute the same to final judgment, the damages recovered in such suit shall be distributed as provided in said ninth section. 1877.
Limit and distribution of damages for negligence causing death.
Gen. Statutes, p. 422.

SEC. 2. The third section of part seventeen, title nineteen, chapter seventeen, of the general statutes, and all other acts or parts of acts inconsistent herewith, are hereby repealed. Repeal. Gen. Stat., p. 488.

In Addition.

That any person who, without neglect on his part, may suffer damage by reason of the neglect of any railroad company to construct or maintain railings or fences on the side of its railroad, as required by law, may recover such damage from such company in an action on the case. 1878.
Damage, when recoverable against R. R. Co. for neglect to make or maintain fence.

PROTECTION OF EMPLOYEES AND EMPLOYERS.

SECTION 1. Any person who shall unlawfully, maliciously, and in violation of his duty or contract, unnecessarily stop, delay, or abandon any locomotive, car, or train of cars, or shall maliciously injure, hinder, or obstruct the use of any locomotive, car, or railroad, shall, upon conviction, be liable to a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding six months. 1878.
Penalty for unlawfully obstructing railroad travel.

SEC. 2. Every person who shall threaten, or use any means to intimidate any person to compel such person, against his will, to do, or abstain from doing, any act which such person has a legal right to do, or shall persistently follow such person in a disorderly manner, or Use of threats or intimidation.

injure, or threaten to injure, his property, with intent to intimidate him, shall, upon conviction, be liable to a fine not exceeding one hundred dollars, or imprisonment in the county jail six months.

Repeal. Chap- SEC. 3. Chapter seventy-seven of public acts approved
ter LXXVII, Acts 1877, p. 190. March 22, 1877, is hereby repealed.

LEASING OF RAILROADS.

1878.
Leases of rail-
roads regulated.

No lease of any railroad hereafter made shall be binding on either of the contracting parties for a period of more than twelve months unless the same shall be approved by the stockholders of the company or companies that are parties to the lease, by a vote of two-thirds of the stock represented in person or by proxy, at a meeting of the stockholders called for that purpose, and at least one month's notice shall be given of such meeting by advertising twice a week for four weeks in a daily paper published in the state, and also by mailing a copy of the call and of the lease to each stockholder, and said notice and call shall state that at the meeting the lease will be submitted for the approval of the stockholders.

HIGHWAYS NEAR RAILROADS.

1878.
Highway not to
be laid out near
railroad track.

SECTION 1. No highway which does not cross a railroad track shall hereafter be laid out or opened to the public within one hundred yards of any railroad track unless the layout has been approved by a judge of the superior court, after notice to all parties in interest, and his written approval has been lodged in the office of the town clerk of the town in which the proposed highway is situated.

Power of judge
of superior
court as to this.

SEC. 2. A judge of the superior court shall not approve the layout of any highway, which does not cross a railroad track, within one hundred yards of any railroad track, unless he finds that public convenience and necessity requires such highway to be within such distance; and he shall have power to require any town opening a highway to the public within such distance, to erect and maintain such a fence between such highway and the railroad track as, in his opinion, the safety of the public may require.

Effect of this
act.

SEC. 3. This act shall take effect from its passage, but shall not affect any suit now pending.

OBSTRUCTION OF HIGHWAYS.

1878.
Obstruction of
highway travel
by railroad cars,
etc.

SECTION 1. Any person traveling upon any public street or highway which is crossed by a railroad, who shall be obstructed or prevented from crossing such railroad for a longer time than five minutes, by reason of

trains, cars, or locomotives standing upon or across such street or highway, may recover not exceeding fifty dollars from the corporation owning or operating said railroad: *provided*, suit is brought within thirty days after the date of such obstruction.

SEC. 2. Section twenty-third, part first, chapter seven, title sixteen of the general statutes is hereby repealed.

Repeal.
Gen. Statutes,
p. 234.

CONNECTING RAILROADS.

SECTION 1. When the railroad of the Connecticut Central Railroad Company, or any of its branches, as now constructed, meets or lawfully crosses another railroad at the same level therewith, the corporations or persons by which either of said railroads is owned or operated may with the written consent of the board of railroad commissioners and upon such terms as said railroad commissioners shall after due hearing prescribe, enter its road upon or unite the same with and use the road of the other; but no locomotive engine or other motive power shall be allowed to run upon a railroad except such as is owned or controlled by the corporation owning or operating such railroad, or with the consent of such corporation; and every such corporation or persons shall at all reasonable times and for a reasonable compensation, draw over its or their railroad the passengers, merchandise, and cars of the other, and each of them shall for a reasonable compensation provide upon its railroad convenient and suitable dépôt accommodations for the passengers and merchandise of the other road passing to and over it, and shall receive and deliver the same in the manner it receives and delivers its own passengers and freight.

1878.
Connections of
Connecticut
Central Rail-
road. ✓

SEC. 2. If the corporations or persons cannot agree upon the stated periods at which the cars of one shall be drawn over the other, and the compensation to be paid therefor, or cannot agree upon the terms and conditions upon which accommodations shall be furnished for the passengers and merchandise of the other, the railroad commissioners, upon the petition of either party and notice to the other, shall hear the parties and shall in each case determine (having reference to the convenience and interest of the corporations and of the public to be accommodated thereby) the stated periods for drawing cars and the compensation therefor, or the terms and conditions for passengers and merchandise, or the requisite terminal accommodations as aforesaid. And upon application of either party shall determine all questions between the parties in relation to the transportation of freight and passengers, and other business upon and con-

Determination
of points on
which the com-
panies cannot
agree.

Appeal.

nected with said railroads in which they are jointly interested, and the manner in which the business shall be done, and apportion to such corporations or persons their respective shares of the expenses, receipts, and income of the same. And the award of the commissioners, or a major part of them, shall be binding upon the respective corporations and persons interested therein, for one year or until the commissioners shall revise and alter the same: *provided, however,* that any person or corporation aggrieved by any order of the railroad commissioners made under the provisions of this act, may appeal from the same to the superior court of the county wherein said railroads meet, within twenty days after the date of such order, in the same manner that appeals are now allowed upon any proceeding relative to the location, abandonment, or changing of dépôts or stations.

This act confined to Conn. Central and its intersecting railroads.

None of the provisions of this act shall apply to any railroad except the Connecticut Central and such other railroads whose tracks are now intersected or crossed by the track or tracks of said Connecticut Central railroad.

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GENERAL RAILROAD LAW

OF

ILLINOIS.

[Approved, November 5th, 1849.]

AN ACT TO PROVIDE FOR A GENERAL SYSTEM OF RAIL ROAD
INCORPORATIONS.

SECTION 1.—*Be it enacted by the People of the State of Illinois,* ^{Corporation how formed.}
represented in the General Assembly, That any number of persons, not less than twenty-five, being subscribers to the stock of any contemplated Railroad, may be formed into a Corporation for the purpose of constructing, owning and maintaining such Railroad, by complying with the following requirements: When stock to the amount of at least one thousand dollars for every mile of said road, so intended to be built, shall be in good faith subscribed, and ten per cent. paid thereon, as herein required, then the said subscribers may elect Directors for the said Company: thereupon they shall severally subscribe articles of association in which shall be set forth the name of the Corporation; the number of years the same is to continue, which shall not exceed fifty years; the amount of the capital stock of the Company, which shall be the actual cost of constructing the road, together with the cost for the right of way, motive power, and every other appurtenance for the completion and running of said road, as nearly as can be estimated by competent engineers; the number of shares of which said stock shall consist; the number of Directors, and their names, to manage the concerns of the Company, who shall not be one-half in the number of the stockholders, and shall hold their offices until others are elected; the place from and to which the pro-

^{Articles of Association.}

posed road is to be constructed, and each county into or through which it is intended to pass, and its length, as near as may be, and the names of five Commissioners to open books of subscription to the stock. Each subscriber to such article of association shall subscribe thereto his name, place of residence, and the number of shares of stock taken by him in such Company. The said articles of association may, on complying with the next section, be filed in the office of Secretary of State, and thereupon the persons who have subscribed, and all persons who shall from time to time become stockholders in such Company, shall be a body Corporate, by the name specified in such articles.

Commission-
ers.

SEC. 2.—Such articles of association shall not be filed in the office of the Secretary of State until ten per cent. on the amount of the stock subscribed thereto shall have been actually and in good faith paid, in cash, to the Directors named in such articles, nor until there is endorsed thereon, or annexed thereto, an affidavit made, by at least three of the Directors named in such articles, that the amount of stock required by the first section has been subscribed, and that ten per cent. on the amount has actually been paid in.

Articles to be
evidence.

SEC. 3.—A copy of any articles of association filed in pursuance of this Act, with a copy of the affidavit aforesaid endorsed thereon, or annexed thereto, and certified to be a copy by the Secretary of this State, or his deputy, shall, in all courts and places, be presumptive evidence of the incorporation of such Company, and of the facts therein stated.

Certificate, its
effects

SEC. 4.—When the Certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate, by the name stated in such certificate, and shall be capable of suing and being sued, and may have a common seal, and may make and alter the same at pleasure, and be capable in law of purchasing, holding and conveying any Real Estate and personal property whatever, necessary

for the construction of such road and for the erection of all necessary buildings, yards, and appurtenances for the use of the same.

SEC. 5.—The Commissioners for opening books of subscription, Books to be opened. named in the Act of Incorporation, shall from time to time, after the Company shall be incorporated, open books of subscription to the Capital Stock of the Company, in such places, and after giving such notice as a majority of them shall direct; which books of subscription shall be kept open until all the Capital Stock shall be subscribed, if the Corporation shall so long exist, and in case a greater amount of Stock shall be subscribed than the whole capital of said Company, the Commissioners shall distribute such Capital Stock as equally as possible among the subscribers; but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any subscriber than such subscriber shall have subscribed for.

SEC. 6.—As soon as practicable, after such Capital Stock shall have Directors to be chosen. been subscribed and distributed as aforesaid, the Commissioners to receive subscriptions thereto shall appoint a time and place for the meeting of the Stockholders to choose Directors; such meeting to be held in one of the Counties in or through which such Railroad is proposed to be constructed, and notice thereof shall be given by said Commissioners, by public notice to be published not less than twenty days previous thereto, in the State Paper, and a newspaper published in each County through which the said road shall be intended to run, in which a newspaper shall be published.

Thirteen Directors shall be chosen at such meeting, by ballot, and Qualification of voters. by a majority of the votes of the Stockholders being present in person or by proxy, and every such Stockholder being so present at such election, or at any subsequent election of Directors, shall be entitled to give one vote for every share of Stock which he shall have owned for thirty days next preceeding such election; but no Stockholder shall vote at any such election upon any Stock, except such as he shall have owned for such thirty days. No person shall be a Director un-

less he shall be a Stockbroker, owning Stock absolutely and in his own right, and qualified to vote for Directors at the election at which he shall be chosen ; and at least seven of the Directors shall at the time of their election, be residents of the Counties in or through which the route of such Railroad shall run. The Directors shall be Directors for one year, or until others are elected in their places.

Duty of Commissioners.

SEC. 7. The Commissioners named in the last preceding section shall be inspectors of the first election of directors, shall openly count the votes and declare the result, and shall, within ten days thereafter, file a certificate thereof, subscribed by them or a majority of them, in the office of the Secretary of State, and in the office of the clerk of each county, or with the clerk of the County Commissioners' Court (as the case may be) of each county in or through which such railroad shall be proposed to be constructed, and shall also deliver to the treasurer of such Company all monies (received) by such commissioners on subscriptions to such capital stock, and all books and papers in their possession relative to such subscriptions. All subsequent elections shall be held at such time and place in one of these counties through which such railroad shall pass, as shall be directed by the by-laws of the Company.

Meetings of Stockholders.

SEC. 8. A general meeting of the stockholders of any Corporation *formed under this act*, shall be holden annually at the time and place appointed for the election of Directors, and a meeting may be called at any time during the interval between such annual meetings by the directors or by the stockholders owning not less than one-fourth of the stock, by giving thirty days public notice of the time and place of the meeting in the State paper, and a newspaper published in each county through which the said road shall be run, or be intended to be run, in which a newspaper shall be published ; and when any such meeting is called by the stockholders, *the particular object of such shall be stated*, and if at any such meeting thus called, a majority in value of the stockholders are not represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three

Notice.

days, without transacting any business, and if within said three days, stockholders having a majority of the stock do not attend such meeting, then the said meeting shall be dissolved.

SEC. 9. At the regular annual meeting of the stockholders of *any* Duty of President and Directors. Corporation, it shall be the duty of the President and Directors in office for the preceding year, to exhibit a clear and distinct statement of Statements the affairs of the said company, and at any meeting of the stockholders, a majority of those present in person or by proxy, may require similar statements from the directors, whose duty it shall be to furnish them when thus required; and at all general meetings of the stockholders *a majority in value of the stockholders in said Company may* Rate of Interest. *fix the rate of interest* which shall be paid by the Company for loans for the construction of said road and its appendages, *may remove any President or any Directors of said Company and elect others in their stead : Provided, notice of such intended removal has been given as* Proviso. *required by the last preceding section.*

SEC. 10. In case it shall happen at any time that an election of Directors shall not be made on the day designated by the by-laws of the Company when it ought to have been made, the Company for that reason shall not be dissolved if *within ninety days* thereafter, they shall hold an election for Directors in such manner as shall be provided by the by-laws of the Company. There shall be a President of Failure of Election. President. the Company, who shall be chosen by and from the Directors, and also such subordinate officers as the Company, by its by-laws, may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their office, as the Company by its by-laws may require.

SEC. 11. It shall be lawful for the Directors to call in and demand Payments of Subscriptions from the stockholders respectively all sums of money by them subscribed, at such time and in such payments or instalments as the Directors shall deem proper, under the penalty of forfeiting the shares Forfeiture. of stock subscribed for, and all previous payments made thereon, if

payments shall not be made by the stockholders within sixty days after personal demand, or notice requiring such payment shall have been made in each county through which said road shall be laid out in which a newspaper shall be published.

By-Laws.

SEC. 12. The Directors of such Company shall have power to make by-laws for the management and disposition of stock, property, and business affairs of such Company, not inconsistent with the laws of this State, and prescribing the duties of officers, artificers and servants that may be employed for the appointment of all officers for carrying on all the business within the object and purposes of such Company.

Stock deemed
personal es-
tate.

SEC. 13. The stock of such Company shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the Company, but no shares shall be transferable till all previous calls thereon shall have been fully paid in, or the said shares shall have been forfeited for the non-payment of calls thereon; and it shall not be lawful for such Company to use any of their funds in the purchase of any stock in their own or in any other Corporation.

Stockholders
responsible
until, &c.

SEC. 14. All the stockholders of any such Company that shall be hereafter incorporated *under this act*, shall be severally individually liable to the creditors of such Company to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such Company, until the whole amount of capital stock fixed and limited by the Company in the manner aforesaid, shall have been paid in, and a certificate thereof shall have been made and recorded, as prescribed in the following section, and shall be jointly and severally liable for all debts that may be due and owing to all their laborers, servants and apprentices, for services performed for such Corporation, but not to be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the Corporation, and then the amount due on said execution shall be the amount recoverable with costs against said stockholders.

SEC. 15. The President and a majority of the Directors, within Certificates of payments. thirty days after the payment of the last instalment of the capital stock, so fixed and limited by the Company, shall make a certificate stating the amount of the capital stock so fixed and paid in, which certificate shall be signed by the President and a majority of the Directors, and sworn to by the President and Secretary, and they shall within the said thirty days, file and record the same in the office of the Secretary of State.

SEC. 16. If the Directors of any such Company shall declare and Liability of Directors in case, &c. pay any dividend when the Company is insolvent, or any dividend, the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall thereafter be contracted so long as they shall respectively remain in office: *Provided*, that if any of the Directors shall be absent at the time of making the dividend, or shall object thereto, and shall, within thirty days thereafter, or after his return, if absent, file a certificate of their absence or objection with the clerk of the Company, and with the clerk of the county, or with the clerk of the County Commissioner's Court, in which the principal office of said Company is located, they shall be exempt from the said liability.

SEC. 17. If any certificate or report made, or public notice given Officers liable in case, &c. by the officers of any such Company, in pursuance to the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the Company contracted while they are stockholders or officers thereof.

SEC. 18. No person holding stock in any such Company, as executor, administrator, guardian, or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholders of such Company; but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estates and funds in the hands of Persons exempt.

such executor, administrator, guardian, or trustee shall be liable in like manner, and to the same extent as the testator or intestate, or the ward or persons interested in such trust fund, would have been if he had been living and competent to act, and held the same stock in his own name.

Stock represented.

SEC. 19. Every such administrator, executor, guardian, or trustee shall represent the shares of stock in his hands at all meetings of the Company, and may vote accordingly as a stockholder.

Map and Profile made

And filed.

SEC. 20. Every such Company before proceeding to construct a part of their road into or through any county named in their Certificate of Association, shall make a map and profile of the route intended to be adopted by such Company ; which shall be certified by a majority of the directors and filed in the office of the County Clerk of such county, or with the Clerk of the County Commissioner's Court of such county, for the inspection and examination of all parties interested therein.

General and Special powers.

SEC. 21. Every such Corporation shall possess the general powers, and be subject to the general liabilities and restrictions expressed in the special powers following, that is to say :

Surveys.

1. To cause such examination and surveys for the proposed Railroad to be made, as may be necessary to the selection of the most advantageous route for the Railroad, and for such purpose, by their officers, agents, and servants, to enter upon lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Take grants, &c.

2. To receive, hold, and take such voluntary grants and donations of real estate and other property, as shall be made to it, to aid in the construction, maintenance, and accommodation of such Railroad ; but the real estate thus received by voluntary grants shall be held, and used for the purposes of such grants only.

3. To purchase and by voluntary grants and donations receive and ^{Purchase Lands.} take, and by its officers, engineers and surveyors and agents, enter upon and take possession of and hold, and use all such lands and real estate and other property as may be necessary for the construction and maintenance of its Railroad and stations, depots, and other accommodations necessary to accomplish the object for which the Corporation is created : but not until the compensation to be made therefor as agreed upon by the parties, or ascertained as hereinafter prescribed, be paid to the owner or owners thereof, or deposited as hereinafter directed, unless the consent of such owner be given to enter into possession.

4. To lay out its road, not exceeding six rods wide, and to construct ^{Lay road six rods.} the same, and for the purposes of cuttings, embankments, and procuring stone and gravel, may take as much more land within the ^{Additional lands, &c., in case.} limits of its charter, in the manner provided hereinafter, as may be necessary for the proper construction and security of the road.

5. To construct their road upon or across any stream of water, wa- ^{Water courses, roads, &c.} ter course, road, highway, railroad, or canal, which the route of its road shall intersect ; but the Corporation shall restore the stream or water course, road or highway, thus intersected, to its former state, or in a sufficient manner not to have impaired its usefulness.

6. To cross, intersect, join, and unite its Railroad with any other ^{Intersect Railroads} Railroad before constructed, at any point on its route, and upon the grounds of such other Railroad Company, with the necessary turn- ^{With turn-outs.} outs, sidings, and switches and other conveniences, in furtherance of the object of its connections ; and every Company whose Railroad is or shall be hereafter intersected by any new Railroad, shall unite with the owners of such new Railroad in forming such intersections and connections, and grant the facilities aforesaid ; and if the two ^{Compensation.} Corporations cannot agree upon the amount of compensation to be made therefor, or the points or manner of such crossings and connections, the same shall be ascertained and determined by Commissioners ^{By Commissioners.} to be appointed by the court, as is provided hereinafter in respect to the taking of lands.

7. To purchase lands or take them, may change the line of its ^{Change line.} road, whenever a majority of the directors shall so determine, as is

hereinafter provided, but no such change shall vary the original route of such road to exceed one mile laterally.

Transport
persons, &c.

8. To take, transport, carry and convey persons and property on their Railroad, by the force and power of steam, of animals, or any mechanical powers, or by any combinations of them, and receive tolls or compensation therefor.

Buildings and
Stations.

9. To erect and maintain all necessary and convenient buildings, stations, depots and fixtures, and machinery for the accommodation and use of their passengers, freight and business, and obtain and hold the lands necessary therefor.

Time of
Trains.

Fares.

Passengers
not exceed 3
cents.

10. To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor; but such compensation for any passenger and his ordinary baggage shall not exceed three cents a mile, unless by special act of the legislature, and shall be subject to alteration, as hereinafter provided.

Borrow mo-
ney.

11. *To borrow money*, to be applied to the construction of their Railroad and fixtures, and purchase of engines and cars, *at such rates of interest as is hereinafter [hereinbefore] provided.*

To petition
Legislature.

SEC. 22. Any number of persons not less than thirteen, intending to organize a Corporation under the provisions of this act, and every Company that may hereafter organize under this act, may present a

Contents of.

petition to the legislature, stating the place from and to which they propose to construct their road, and its location and route, with reasonable certainty, and that they intend to run the said road on the most direct and eligible route between the points of terminus, and praying the legislature to determine whether the construction of the said proposed road will be of sufficient public use to justify the taking of private property for the construction of the same.

Legislature
declare utility

And if the legislature shall determine and decide by law that such proposed road will be of sufficient public utility to justify the taking of private property for constructing and maintaining said road, under the provisions of this act, then such company, when organized, may

Take lands

enter upon, take possession of, and use all such lands, real estate, as

may be required for the construction and maintenance of their railroad, and the convenient accommodations appertaining to the same; making compensation in the manner hereinafter provided, for all lands, Compensation. real estate, thus taken possession of and used, except such as may be voluntarily given to or purchased at an agreed price by the said Corporation. Whenever the said Corporation shall not have acquired by gift, or purchase, any land, real estate, so required as aforesaid, or which may be affected by any operation connected by such construction and maintenance, the said Corporation may present to the Circuit Court of the district where said lands or real estate shall lie, a petition signed Petition court by its attorney or agent, describing with convenient accuracy and certainty, by map or otherwise, the lands or real estate so required to be Contents of. taken or affected as aforesaid, setting forth the name and residence of each owner or other person so interested therein as owner, lessee, incumbrancer, as far as known to such attorney or agent, or appearing of record, and praying the appointment of commissioners to ascertain the compensation to be made to such owners and persons interested, for the taking or injuriously affecting such land or real estate aforesaid. The Court shall have satisfactory evidence that notice of an Notice of do. intended application, and the time and place thereof, for the appointment of commissioners of appraisement between said Corporation and the owners and persons interested in such lands and real estate, had been given at least ten days previously, to such owners personally, or to some person of suitable age, at their residence, or on the premises, or by publication thereof in a newspaper printed in the county in which such lands or real estate may lie. Such publication to be allowed only in respect to owners who shall appear by affidavit to have no residence in the county, known to such agent or attorney, whereat such notes could be delivered as aforesaid. The Court may May adjourn proceedings. adjourn the proceedings from time to time; shall direct any future notice thereof to be given that may seem proper; shall have proofs Proofs. and allegations of all parties interested, touching the regularity of the proceedings; and shall, by an entry in its minutes, appoint five com- Appoint Commissioners. petent and disinterested persons, commissioners, to ascertain such compensation as aforesaid, specifying in such entry a time and place for

the first meeting of such commissioners. The said commissioners, before entering upon the duties of their office, shall take the oath required by the laws and Constitution of this State, and any one of them may administer oaths to witnesses produced before them ; and may adjourn and may hold meetings for that purpose. Whenever they shall meet to hear proofs and allegations, unless by appointment of the Court, or pursuant to adjournment, they shall cause reasonable previous notice of such meetings to be given to the said owners or parties interested, or their attorney or agent, and may each of them issue subpoenas and compel witnesses to appear and testify ; they shall hear the proofs and allegations of the parties, and any three or more of them, after reviewing the premises, without fear or favor, or partiality, ascertain and certify the compensation proper to be made to the said owners and parties interested, for the lands or real estate to be taken, as well as all damages accruing to the owner of the lands and real estate aforesaid, taken in consequence of the condemnation of the same, or injuriously affected as aforesaid, making such deduction or allowance for real benefits or advantages which such owners or parties interested may derive from the construction of said road, and may in their discretion, assess a separate reasonable sum in favor of such owners and parties interested, or of any person appointed by the Court to appear as attorney for them, for costs, expenses and reasonable counsel fees. They, or a majority of them, shall make, subscribe, and file with the Clerk of the County, or with the Clerk of the County Commissioners' Court, in which such lands or real estate shall lie, a certificate of their said ascertainment and assessment, in which such lands or real estate shall be described by map or otherwise, with convenient accuracy and certainty. The Court, upon such certificate and due proof that such compensation and separate sums, if any be certified, have been paid to the parties entitled to the same, or have been deposited to the credit of such parties in the State Treasury, or other place for that purpose approved by the Court, shall make, and cause to be entered in its minutes a rule describing such lands or real estate, in manner aforesaid, such ascertainment of compensation, with the mode of making it, and such payment or deposit of the same compensation as afore-

Oath

Commissioners give notice,

Summon witnesses,

Hearing,

View,

Certify damages.

Deduct benefits,

May assess costs.

Return certificate of appraisalment.

Entry in court,

said ; a certificate copy of which rule shall be recorded and indexed in the proper recorder's office, in like manner and in like effect, as if it were a deed of conveyance from the said owners and parties interested to the said Corporation. Upon the entry of such rule, the said Corporation shall become seized in fee of all the lands and real estate described in said rule, as required to be taken as aforesaid during the continuance of the Corporation, by this or any subsequent act, and may take possession of and hold and use the same for the purposes of said road, and shall thereupon be discharged from all claim for any damages by reason of any matter specified in said petition, certificate, or rule of said Court. If at any time after an attempted or actual ascertainment of compensation under this or any other act, or any purchase by, or donation to said Corporation, of any lands for the purposes aforesaid, it shall appear that the title acquired thereby to all or any part of such lands for the use of said road, or if said Corporation shall fail, or be deemed defective, the said Corporation may proceed anew to perfect such title, by procuring an ascertainment of the compensation proper to be made to any person or persons whose title, claim, or interest in, or lien upon such lands, and by making payment thereof in the manner hereinafter provided, as near as may be, and at any stage of such new proceedings, or of any proceedings under this act, the Court may, by a rule in that behalf made, authorize the said Corporation, if already in possession, and if not in possession, to take possession of and use such premises during the pendency and until the final conclusion of such proceedings, and may stay all actions and proceedings against such Corporation on account thereof: *Provided*, such Corporation shall pay a sufficient sum into Court or give approved security to pay the compensation in that behalf, when ascertained ; and in every case where possession shall be so authorized, it shall be lawful for the owners to conduct the proceedings to a conclusion, if the same shall be delayed by the Company. The said Commissioners shall be entitled to receive from said Corporation a compensation not exceeding two dollars for each day actually employed by them in the discharge of their duties. Such compensation to be taxed and allowed by the Court. If any commissioner so appointed shall die, be unable, or fail to serve, the Court may appoint

Corporation seized in fee.

If title fail, proceed anew.

May take possession if give security,

or pay into court.

Fees of Commissioners,

Fill vacancies

County
where lands
lie.

Legislature
indicate route
and termini.

Sanction
requisite.

another in his place, on reasonable notice of the application, to be approved by the Court. The proceedings hereby authorized may be had in the Circuit Court in a county where the lands lie, and all motions to the Circuit Court shall be made at a general or special term thereof in said County. The said Commissioners shall file the said certificate in the county where the lands to be affected may lie, or in any adjacent county, and any clerk may transfer the same and the proceedings connected therewith to the clerk of the county in which the lands to be affected may lie, or of any county adjacent thereto, whenever said commissioner or clerk shall be so required by said Corporation, its agent or attorney. And the Legislature hereby reserves (the right) to itself to indicate the routes and termini of said roads, and the same shall not be constructed or commenced without the express sanction of the Legislature of this State, by a law to be passed hereafter.

Infants, idiots,
&c., or un-
known
owner.

SEC. 23.—In case an infant, idiot, or insane person, or any unknown owner or owners not personally notified to appear, and who shall not appear, after such notice, on the appointment of Commissioners, shall be interested in any such lands, real estate, and property, the Court shall appoint some proper person to appear before the said Commissioners and act as attorney for and in behalf of such infant, idiot, insane person, unknown owner, or non-appearing owner, not personally served with notice.

Line may be
altered.

New map
filed.

Possession.

SEC. 24.—If at any time after the location of the track of said road, in whole or in part, and the filing of the map thereof, it shall appear to the Directors of said Company, that the line in some parts thereof may be improved, it shall be lawful for the said Directors, from time to time, to alter the line and cause a new map to be filed in the office, where the map showing the first location is or shall be filed, and may thereupon proceed to take possession of the lands embraced in such new location that may be required for the construction and maintenance of said road on such new line, and the convenient accommodations appertaining to the same, either by agreement with

the owner or owners, or by such proceedings as near as may be, as are authorized under the preceding section of this Act, and use the same in place of the line for which the new is substituted. Nothing in this Act contained shall authorize the said Company to make a location of their track within any city without the consent of the Common Council of said city.

No location in a city without consent.

SEC. 25.—Whenever the track of said Railroad shall cross a road or highway, such road or highway may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said Company may take such additional lands for the construction of such roads or highway, or such new line, as may be deemed requisite by said Directors. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained in the manner in this Act provided, as nearly as may be, and duly made by said Corporation to the owners and persons interested in such lands, the same when so taken, or compensation made, to become part of such intersecting road or highway, in such manner and by such tenure as the adjacent parts of the same highway may be held for highway purposes.

Highways how crossed, under or over

Change highway.

Compensation for do.

SEC. 26.—If any such Corporation shall for its purpose aforesaid require any land belonging to the people of this State, or to any of the Counties or Towns, the General Assembly of the State and the County and Town Officers respectively, having charge of said lands, may grant such lands to such Corporations for a compensation, which shall be agreed upon between them; and if they shall not agree upon a sale and price, the same may be taken by the Corporation as is before provided in respect to other cases.

Lands may be granted by State, county or town.

Appraised if not agreed.

SEC. 27.—Every conductor, baggage master, engineer, brakeman or other servant of any such Railroad Corporation, employed in a passenger train, or at stations for passengers, shall wear upon his hat or

Officers to wear badge.

cap a badge, which shall indicate his office, and the initial letters of the style of the Corporation by which he is employed. No conductor or collector without such badge, shall demand or be entitled to receive from any passenger any fare, toll, or ticket, or exercise any of the powers of his office; and no other of said officers or servants, without such badge, shall have any authority to meddle or interfere with any passenger, his baggage or property.

Annual Report.

Oath.

Contents.

SEC. 28.—Every such Corporation shall make an annual report to the Secretary of this State, of the operations of the year ending on the first day of January, which report shall be verified by the oaths of the Treasurer and the acting Superintendent of operations, and filed in his office by the twentieth day of January, in each year, and shall state—1st. The Capital Stock and the amount actually paid in; 2d. The amount expended for the purchase of lands for the construction of the road, for buildings, and for engines and cars respectively; 3d. The amount and nature of its indebtedness, and the amounts due the Corporation; 4th. The amount received for the transportation of passengers, of property, of the mails, and from other sources; 5th. The amount of freight, specifying the quantity in tons, of the products of the forests, of animals, of vegetable food, other agricultural products, manufactures, merchandise, and other articles; 6th. The amount paid for repairs, engines, cars, buildings, and salaries; 7th. The number and amount of dividends and when paid; 8th. The number of engine houses and shops, of engines and cars and their character; 9th. The number of miles run by passenger, freight and other trains, respectively; 10th. The number of men employed and their occupation; 11th. The number of persons injured in life or limb, and the cause of such injury; 12th. Whether any accidents have arisen from carelessness or negligence of any person in the employment of the Corporation, and whether such person is retained in the service of the Corporation.

Penalty for neglect.

SEC. 29.—Any such Corporation which shall neglect to make such report, shall be liable to a penalty of two hundred and fifty dollars, to be sued for in the name of the people of this State.

SEC. 30. The property belonging to any Company *organized under the provisions of this Act*, shall be listed by the resident Secretary or other proper Officer, with the Auditor of the State, which shall be subject to the same rate of taxation as other similar property of individuals, and the revenue arising therefrom shall be paid into the State Treasury, until the entire extinction of the internal improvement debt of the State, after which the said property shall be subject to taxation, and the revenue arising therefrom paid as in case of all other property in the State. The revenue derived under this section to be applied to the payment of the public debt of the State.

Property to be listed.
Taxation.

SEC. 31. The State shall have a lien upon all Railroads of said Corporations, and their appurtenances and stock therein, for all penalties, taxes, and dues which may accrue to the State from said Corporations; which lien of the State shall take precedence of all demands, judgments or decrees, against said Corporations; and the citizens of this State shall have a lien upon all the personal property of said Corporation to the amount of one hundred dollars, originally contracted within this State, which, after said lien of the State, shall take precedence of all other debts, demands, judgments or decrees, liens or mortgages against said Corporation.

Liens of State,
and of citizens.

SEC. 32. The legislature may when any such Rail Road shall be opened for use, from time to time alter or reduce the rates of toll, fare, freight, or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than fifteen per cent. per annum on the capital actually paid in; nor unless, on an examination of the amounts received and expended, to be made by the secretary of state, he shall ascertain that the net income divided by the Company from all sources for the year then last past shall have exceeded an annual income of fifteen per cent. upon the capital of the corporation actually paid in.

Tolls may be altered by Legislature.
Not if income under 15 per cent.

SEC. 33. Any such corporation shall when applied to by the Postmaster general, convey the mails of the United States on their

To carry mails.

Governor
appoint Com-
missioners.

Fix prices,
&c., for mails.

road or roads respectively, and in case such corporation shall not agree as to rates of transportation thereof, and as to time, rate of speed, manner and condition of carrying the same, it shall be lawful for the governor of this State to appoint three commissioners, who, or a majority of them, after fifteen days notice in writing of the time and place of meeting, to the corporation, shall determine and fix the prices, times, and conditions aforesaid, but such prices shall not be less for carrying said Mails in the regular passenger trains, than the amount which said corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post office car. And in case the postmaster general shall require the mail to be carried at other hours and at a higher speed than the passenger trains be run at, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the services to be fixed aforesaid.

Penalty on
refusal to pay
fare.

SEC. 34. If any passenger shall refuse to pay his fare or toll, it shall be lawful for the conductor of the train and the servants of the Corporation to put him out of the cars at any usual stopping place the conductor shall select.

Regular
times shall be
fixed.

Accommoda-
tions fur-
nished

SEC. 35. Every such Corporation shall start and run their cars for the transportation of passengers and property, at regular times to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer or be offered for transportation at the place of starting, and the junctions of other Rail Roads, and at siding and stopping places established for receiving and discharging way passengers and freight, and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of tolls, freight, or fare, legally authorized therefor.

Penalty for
neglect.

SEC. 36. In case of the refusal by such Corporation, or their agents so to take and transport any passengers or property, or to de-

liver the same, or either of them, at the regular or appointed time, such Corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit.

SEC. 37. In forming a passenger train, baggage or freight or mer- ^{Trains how placed.}
chandise or lumber cars, shall not be placed in rear of passenger cars, and if they or any of them shall be so placed and any accident shall happen to life or limb, the officer or agent who so directed or knowingly suffered such arrangement, and the conductor or engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly.

SEC. 38. A bell of at least thirty pounds weight, or a steam ^{Bell and whistle to be kept and rung, &c.}
whistle shall be placed on each locomotive engine, and shall be rung or whistled at the distance of at least eighty rods from the place where the said road shall cross any other road or street, and be kept ringing or whistling until it shall have crossed said road or street, under a penalty of fifty dollars for every neglect, to be paid by the Corporation owning the Railroad, one-half thereof to go to the informer, and the other half to the State, and also be liable for all damages which shall be sustained by any person by reason of such neglect.

SEC. 39. Every such Corporation shall cause boards to be placed, ^{Boards to be kept up.}
well supported by posts or otherwise, and constantly maintained across each public road or street, where the same is crossed by the Railroad. On the same level said boards shall be elevated, so as not to obstruct the travel, and to be easily seen by travellers; and on each side of said boards shall be painted in capital letters of at least the size of nine inches each, the words "Railroad crossing, look out for the cars while the bell rings, or the whistle sounds." But this section shall not apply to streets in cities or villages, unless the Corporation be required to put up such boards, by the officers having charge of such streets.

Intoxication
of Engine-
man or
Conductor.

SEC. 40. If any person shall while in charge of a locomotive engine running upon the Railroad of any such Corporation, or while acting as the conductor of any car or train of cars on any such Railroad be intoxicated, he shall be deemed guilty of a misdemeanor.

Penalty for
injury to
Corporation.

SEC. 41. If any person shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of any such Corporation, or any engines, machines or structures, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons offending, shall be guilty of a misdemeanor, and shall forfeit and pay to the said Corporation, treble the amount of damages sustained by means of such offence.

Penalties,
how reco-
vered.

SEC. 42. All penalties imposed by this act may be sued for by the district attorney, and in the name of the people of the State of Illinois; and if such penalty be for a sum not exceeding one hundred dollars, then each suit may be brought before a Justice of the Peace.

Corporation
to make and
file map of
lands.

SEC. 43. Every such corporation shall, within reasonable time after their road shall be located, cause to be made:

1st. A map and profile thereof, and of the land taken and obtained for the use thereof, and file the same in the office of the Secretary of State; and also like maps of the parts thereof located in different counties, and file the same in the office for recording deeds in the county in which said parts of said road shall lie, there to remain as of record forever.

Certificate of
line, grades,
&c.

2d. A certificate, specifying the line upon which it is proposed to construct the Railroad and the grades and curves.

Incorporation
void in
case, &c.

SEC. 44. If any such corporation shall not within five years after its incorporation, begin the construction of its road and expend thereon ten per cent. on the amount of its capital, and finish the road and put it in full operation in ten years thereafter, its act of incorporation shall become void.

SEC. 45. *All existing Railroad Corporations within this State,* Existing Corporations subject to this Act, shall respectively have and possess all the powers and privileges, and *be subject to all the duties and liabilities and provisions contained in this act, so far as they shall be applicable to their present conditions and not inconsistent with their several charters,* and all Railroad Companies that are now constructing their roads may acquire title to lands necessary for that purpose under the provisions of this act.

SEC. 46. This act shall take effect and be in force from and after its passage.

APPROVED, November 5, 1849.

ADDITIONAL GENERAL RAILROAD LAW.

APPROVED, NOV. 6TH, 1849.

AN ACT SUPPLEMENTAL TO AN ACT ENTITLED "AN ACT TO PROVIDE FOR A GENERAL SYSTEM OF RAILROAD INCORPORATIONS."

SEC. 1. *Be it enacted by the People of the State of Illinois, re-* Stock may be subscribed by city or county *presented in general assembly,* That whenever the citizens of any city or county of this State, are desirous that said city or county should subscribe for stock in any Railroad Company already organized or incorporated, or hereafter to be organized or incorporated, under any law of this State, such city or county may, and are hereby authorized to purchase or subscribe for shares of the capital stock in any such Company, in any sum not exceeding one hundred thousand dollars for each of said cities or counties; and the stock so subscribed for or purchased, shall be under the control of the County Court of the county, or Common Council of the city making such subscription or purchase, in all respects as stock owned by individuals.

City or county may borrow money and issue bonds.

SEC. 2. That for the payment of said stock, the Judges of the County Court of the county, or the Common Council of the city, making such subscription or purchase, are hereby authorized to borrow money at a rate not exceeding ten per cent. per annum, and to pledge the faith of the county or city for the annual payment of the interest, and the ultimate redemption of the principal; or if the said Judges or Common Council shall deem it most advisable, they are hereby authorized to pay for such subscription or purchase in bonds of the city or county, making such subscription to be drawn for that purpose, in sums not less than fifty dollars, bearing interest not exceeding ten per cent. per annum: *Provided* that no bond shall be paid out at a rate less than par value.

Bonds receivable.

Power to issue bonds.

SEC. 3. The Railroad companies *already organized or incorporated*, or hereafter to be organized or incorporated under the laws of this State, are hereby authorized to receive the bonds of any county or city, becoming subscribers to the capital stock of such Company, at par and in lieu of cash,—*and to issue their bonds bearing interest, not exceeding ten per centum per annum, for any moneys by them borrowed for the construction of their Railroad and fixtures, or for the purchase of engines and cars, and for such purpose, may dispose of any bonds by them received as aforesaid.*

Vote to be taken and how done.

SEC. 4. No subscription shall be made or purchase or bond issued, by any county or city under the provisions of this act, whereby any debt shall be created by said Judges of the County Court of any county, or by the Common Council of any city, to pay any such subscription, unless a majority of the qualified voters of such county or city, (taking as a standard the number of votes thrown at the last general election, previous to the vote had upon the question of subscription under this act, for county officers,) shall vote for the same; and the Judges of the County Court of any county, or the Common Council of any city, desiring to take stock as aforesaid, shall give at least thirty days notice in the same manner as notices are given for election of State and County officers in said counties, requiring said

electors of said counties or said cities, to vote upon the day named in such notices, at their usual place of voting, for or against the subscription for said capital stock, which they may propose to make, and said notices shall specify the Company in which stock is proposed to be subscribed, the amount which it is proposed to take, and the time which the bonds proposed to be issued are to run, and the interest which said bonds are to bear; or in case it is proposed to borrow money to pay such subscription, then the notices shall state the terms upon which such loan is to be effected; and the opinion of the electors shall be expressed upon their ballots "for subscription" or "against subscription," and counted and returned by the judges and clerks of elections as in other cases; and if a majority of the voters of said county or city, assuming the standard aforesaid, shall be in favor of the same, such authorized subscription or purchase, or any part thereof, shall then be made by said judges or Common Council. In case any election had under this act is held upon a day of a general election, then the number of votes thrown at such general election for county officers shall be the standard of the number of qualified voters as aforesaid. No bonds shall be issued under the provisions of this act by any county or city, excepting for the amounts required to be paid at the time of subscription, and for the amounts of and at the time when assessments upon all the stockholders of said Company shall be regularly assessed and made payable.

SEC. 5. This act shall take effect from and after its passage.

APPROVED, November 6, 1849.

ADDITIONAL ACT OF ILLINOIS.

APPROVED, JUNE 22d, 1852.

(*Laws of Illinois, 1852, pages 187 to 193.*)

AN ACT to incorporate the Wabash Valley Rail Road Company,
—AND TO REGULATE THE CAPITAL STOCK OF OTHER RAIL
ROADS.

Power to
increase
Capital Stock

To any
amount not
exceeding
the bona fide
estimated
cost of con-
struction and
equipment.

SECTION 5. The capital stock of said Company shall be five hundred thousand dollars, which said capital stock of this, *or any other organized Railroad Company, may, by order of their several* BOARDS of DIRECTORS, *be increased, when deemed necessary, to any amount, not exceeding the actual bona fide estimated cost of constructing and equipping their respective Roads,—and subscription to the increased capital stock may be made, from time to time, as may be ordered and directed by the* BOARDS of DIRECTORS of such companies respectively : which stock shall be divided into shares of fifty dollars each, which shall be deemed personal property, and may be issued, certified, transferred, and registered in such manner, and at such places as may be ordered and provided by the BOARD of DIRECTORS, who shall have power to require the payment of stock subscribed, in the manner, and at the time, and in such sums as they may direct ; and on the refusal or neglect on the part of stockholders, or any of them, to make payment on the requisition of the BOARD of DIRECTORS, the share of such delinquent may, after thirty days public notice, be sold at public auction, under such rules as the DIRECTORS may adopt, the surplus money, if any remains, after deducting the payments due, with the interest and necessary cost of sale, to be paid to the delinquent stockholder.

The BOARD of DIRECTORS hereinafter named and approved, shall cause books to be opened for subscription to the capital stock of said Company, at such times and places, and in such manner as they shall direct : *Provided, That as soon as seventy-five thousand dollars of*

bona fide subscription shall be made to said capital stock, and five per cent. thereon paid, it shall be lawful for said Company to commence the construction of said road.

SECTION 16. Said Company is hereby authorized, from time to time, to borrow such sum or sums of money *as may be necessary for completing and finishing or operating their said Railroad,—and to issue and dispose of their bonds, in denominations of not less than five hundred dollars, at such rate of interest, not exceeding seven per cent. per annum, and at such discount, as may be thought for the benefit of the Company.*

Power to borrow money: to issue and sell bonds.

THIS SECTION shall apply to all Railroad incorporations in the State, which desire to avail themselves of its provisions, and for any amount so borrowed, and to mortgage their corporate property and franchises, or convey the same, by Deed of Trust, to secure the payment of any debt contracted by said Company for the purposes aforesaid: and the DIRECTORS of said Company may confer on any bond holder of any bond issued *for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said Company, at any time, not exceeding ten years from the date of the bond, under such regulations, as the DIRECTORS of said Company may see fit to adopt.*

Made applicable to all Railroad Incorporations.

Power to mortgage corporate property.

Directors empowered to confer the right on holders to convert bonds into Capital Stock.

SECTION 18. This act shall be deemed and taken as a *public act*, and shall be in full force from and after its passage.

APPROVED, June 22, 1852.

NOTE.—The above sections, it is believed, contain all the provisions in the foregoing Act of June 22, 1852, which are applicable to any Railroad Corporation, other than "*The Wabash Valley Railroad Company.*"

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The State of Indiana

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THE LAWS RELATING TO

Common Carriers, Express, Telegraph
and Telephone Companies.

In Force January 1, 1899.

INDIANAPOLIS:
WM. B. BURFORD, PRINTER AND BINDER.
1899.

EXPLANATION.

The references at the end of each section are to Thornton's Revised Statutes of 1897, Burns' Revised Statutes of 1894, and the official Revised Statutes of 1881. If either of the last two be omitted, the section does not appear in such omitted statute.

656.2 (007) -

656.2 (772)

PART I.

CHAPTER 1.

RAILROADS—ORGANIZATION.

ART.

1. *Before construction.*
2. *After sale.*
3. *By union.*

ART.

4. *By consolidation.*
5. *After abandonment.*
6. *Lateral railroads.*

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[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Section 1. HOW TO FORM CORPORATION. 1. Any number of persons, not less than fifteen, being subscribers to the stock of any contemplated railroad, may be formed into a corporation for the purpose of constructing, owning, and maintaining such railroad, by complying with the following requirements: Whenever stock to the amount of at least fifty thousand dollars, or one thousand dollars for each and every mile of the proposed road, shall have been subscribed, the subscribers to such stock shall elect directors for such company from their own number, and shall severally subscribe articles of association, in which shall be set forth the name of the corporation, the amount of the capital stock of the company (which may be increased from time to time, if necessary, to a sum equal to the actual cost of constructing the road, together with the cost of the right-of-way and motive power, together with all other appurtenances and expenses necessary for the completion and running of such road); the number of shares of which said stock shall consist; the number of directors, and their names, to manage the affairs of the company; the name of the place from which and the place to which the proposed road is to be constructed, and each county into which or through which it is intended to pass; and its length as near as may be. Each subscriber to such articles of association shall state his place of residence and the number of shares taken by him in such company. (R. S. 1897, 5284; R. S. 1894, 5134; R. S. 1881, 3885.)

Sec. 2. ARTICLES, WHERE FILED—EFFECT—EVIDENCE.

2. Articles of association formed in pursuance of the provisions of the foregoing section shall be filed in the office of the Secretary of State; and thereupon the persons who shall have subscribed the same, and all persons who shall, from time to time, become stockholders in such company, and their successors, shall be a body politic and corporate, in perpetuity, by the name stated in such articles of association; and shall be capable of suing and being sued; and may have a common seal, and may make and alter the same at pleasure; and shall be capable in law of purchasing, holding, and conveying any real and per-

sonal property whatever, necessary for the construction of such road and for the erection of all necessary buildings and yards and appurtenances for the use of the same. A copy of any articles of association filed in pursuance of this Act, and certified to be a true copy by the Secretary of State or his deputy, shall, in all Courts and places, be presumptive evidence of the incorporation of such company and of the facts stated therein. (R. S. 1897, 5285; R. S. 1894, 5135; R. S. 1881, 3886.)

Sec. 3. SUBSCRIPTION BOOKS. 3. The directors named in the first section of this Act (Sec. 1) shall open books for subscription to the capital stock of the company at such times and in such places as a majority of them may direct, due notice of which shall be given. In case a greater amount of stock shall be subscribed than the whole capital required by such company, the directors shall distribute such capital stock, so subscribed, as equally as possible among the subscribers; but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any one subscriber than by him subscribed for. (R. S. 1897, 5286; R. S. 1894, 5136; R. S. 1881, 3887.)

[1853, p. 107. Approved March 4, 1853. In force July 24, 1853.]

Sec. 4. MAY FILE COPY OF ARTICLES. 1. Hereafter it shall not be necessary for any association or corporation formed for the purpose of constructing, owning, and maintaining a railroad in pursuance of "An Act to provide for the incorporation of railroad companies," approved May 11, 1852, to file their articles of association in the office of the Secretary of State; but a copy of such articles, duly certified by the officers or persons duly authorized by such association or corporation, may be so filed, and the original retained in the possession of such corporation. (R. S. 1897, 5287; R. S. 1894, 5137; R. S. 1881, 3888.)

Sec. 5. COPIES FILED LEGALIZED. 2. Whenever any association or corporation formed under the provisions of said Act has heretofore filed in the office of the Secretary of State a copy of the original articles of association in lieu of such original articles, the action of such corporation in the premises is hereby legalized, and the same effect is hereby given to such copy as if the provisions of section two of the aforesaid Act (Sec. 3) had been strictly complied with: Provided, however, Such corporation shall, within six months after the taking effect of this Act, authenticate the copy so filed by a proper

certificate, or file in the office of the Secretary of State, in lieu of the copy heretofore filed, another copy of such original articles of association, duly certified and authenticated by the proper officer or officers of such corporation. (R. S. 1897, 5288; R. S. 1894, 5138; R. S. 1881, 3889.)

[1 R. S. 1852, p. 423. Approved June 17, 1852. In force May 6, 1853.]

Sec. 6. INCREASE OF STOCK. 1. Whenever any railroad company which may have been incorporated with a fixed amount or limitation of capital, or which may hereafter be organized, shall find it necessary to increase the same for the building, repair, equipment, or conducting of its road, it shall be lawful for such company, by a vote of its board of directors, from time to time, to increase its capital stock to any amount by said board of directors deemed necessary, not to exceed the sum of fifteen thousand dollars a mile, exclusively for railroad purposes, inclusive of their original capital, for the purposes aforesaid. (R. S. 1897, 5289; R. S. 1894, 5139; R. S. 1881, 3890.)

Sec. 7. NUMBER OF DIRECTORS. 2. The stockholders of any railroad company heretofore incorporated in this State, or that may be hereafter incorporated, may, by the vote of a majority in interest of the stockholders of such company, at any annual or other meeting thereof, determine that the directors of said company shall consist of any number not less than five nor more than thirteen, who shall be chosen from any of the stockholders; and thereafter such company may elect from any of its stockholders the number of directors it has fixed and determined upon as aforesaid, in the same manner and with the same effect as if this section was contained in the original Act incorporating such company. (R. S. 1897, 5290; R. S. 1894, 5141; R. S. 1881, 3891.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 8. ELECTION OF DIRECTORS. 4. There shall be an annual meeting of the stockholders (to be held in one of the counties in which or through which such road is proposed to be or may be constructed) for the election of directors to serve for the ensuing year, notice of which, appointing a time and place, shall be given by the directors chosen, as provided in the first section of this Act (Sec. 3885) for the first annual election, and, afterward, by their successors in office; which notice shall be published, not less than twenty days previous thereto, in a newspaper published in each county through which

such road shall be intended to run (if there be stockholders residing therein) in which a newspaper shall be published; and, if no newspaper be published therein, then by six written or printed notices put up in the most public places in such county. Three judges of election shall be chosen by the board of directors previous to any annual meeting of the stockholders, who shall be stockholders but not directors at the time of such election, whose duty it shall be to receive the votes of the stockholders at such election for directors, and who shall openly count the votes and declare the result, and shall furnish the directors elected at such meeting of the stockholders with a certificate of their election, which certificate shall be evidence of their authority to act as such directors. Not less than seven nor more than thirteen directors shall be chosen at such meeting of stockholders, by ballot, and by a majority of the votes of the stockholders present in person or by proxy. Every such stockholder so present at any election for directors shall be entitled to give one vote for every share of stock which he may have owned for ten days next preceding such election; but no stockholder shall vote at any such election upon any stock except such as he shall have owned for ten days. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. The directors shall hold their office for one year and until others are elected in their places. (R. S. 1897, 5291; R. S. 1894, 5142; R. S. 1881, 3892.)

Sec. 9. SPECIAL MEETINGS OF STOCKHOLDERS. 5. Meetings of the stockholders may be called at any time during the interval between the annual meetings, by the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' public notice of the time and place of the meeting in the manner provided in the next preceding section for the annual meetings. When any such meeting is called by the stockholders, the particular object of such meeting shall be stated in such notice. If at any such meeting, thus called, a majority in value of the stockholders are not represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business; and if, within said three days, stockholders having a majority of the stock do not attend such meeting, then the meeting shall be dissolved. (R. S. 1897, 5292; R. S. 1894, 5143; R. S. 1881, 3892.)

Sec. 10. ANNUAL STATEMENT. 6. At a regular meeting of the stockholders of any such corporation, it shall be the duty of the

president and directors in office for the preceding year to exhibit a clear and distinct statement of the affairs of said company; and at any meeting of the stockholders, a majority of those present in person or by proxy may require similar statements from the directors, whose duty it shall be to furnish them when thus required. At all general meetings of the stockholders a majority in value of the stockholders in such company may remove any president or any director of such company, and elect another in his stead: Provided, Notice of such intended removal shall have been given as required in the last two preceding sections. (R. S. 1897, 5293; R. S. 1894, 5144; R. S. 1881, 3894.)

Sec. 11. FAILURE TO ELECT—OFFICERS. 7. In case it shall happen, at any time, that an election of directors shall not be made on the day designated by the by-laws of the company, when it ought to have been made, the company, for that reason, shall not be dissolved if, within ninety days thereafter, it shall hold an election for directors in such manner as shall be provided by the by-laws of the company. There shall be a president of the company, who shall be chosen by and from the directors, and also such subordinate officers as the company, by its by-laws, may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their offices as the company, by its by-laws, may require: Provided, That nothing herein contained shall be so construed as to prevent the stockholders from removing a president and electing another in his place in the manner prescribed in the last preceding section. (R. S. 1897, 5294; R. S. 1894, 5145; R. S. 1881, 3895.)

Sec. 12. CALLS. 8. It shall be lawful for the directors to call in and demand from the stockholders, respectively, any sums of money by them subscribed, in such payments or installments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon if payment shall not be made by the stockholders within thirty days after personal demand, or if notice requiring such payment shall have been made in each county through which such road shall be laid out in which a newspaper shall be published: Provided, That subscriptions shall not be required to be paid except in equal installments of not more than ten per cent. a month. (R. S. 1897, 5295; R. S. 1894, 5146; R. S. 1881, 3896.)

Sec. 13. BY-LAWS. 9. The directors of such company shall have power to make by-laws for the management and disposition of stock, property, and business affairs of such company not inconsistent with the laws of this State, and prescribing the duties of officers, artificers, and servants that may be employed, and for the appointment of all the officers for carrying on all the business within the object and purposes of such company. (R. S. 1897, 5296; R. S. 1894, 5147; R. S. 1881, 3897.)

Sec. 14. STOCK TRANSFERABLE. 10. The stock of such company shall be deemed personal estate, and shall be transferable in the manner prescribed in the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or the shares shall have been forfeited for the non-payment of calls thereon. (R. S. 1897, 5297; R. S. 1894, 5148; R. S. 1881, 3898.)

Sec. 15. CERTIFICATE OF CAPITAL PAID. 11. The president and a majority of the directors, within thirty days after the payment of the last installment of the capital stock so fixed and limited by the company, shall make a certificate stating the amount of capital stock so fixed and paid in; which certificate shall be signed by the president and a majority of the directors, and sworn to by the president and secretary; and they shall, within the said thirty days, file and record the same in the office of the Secretary of State. (R. S. 1897, 5298; R. S. 1894, 5149; R. S. 1881, 3899.)

[1 R. S. 1852, p. 426. Approved and in force January 20, 1852.]

Sec. 16. LANDS FOR DEPOTS, ETC. 1. It shall be lawful for any railroad company which is now or may hereafter be incorporated, to receive, by purchase or by subscription of stock, any lands, and to hold and convey the same, that may be necessary for the purpose of erecting depots, turn-outs, work-shops, warehouses, or for any other purpose necessary for the convenience of said company in order to transact the business usual for railroad companies. (R. S. 1897, 5299; R. S. 1894, 5150; R. S. 1881, 3900.)

Sec. 17. SUBSCRIPTION OF STOCK IN LANDS. 2. It may be lawful for said corporations, by the consent of the directors of the same, to receive as subscriptions for the capital stock of said companies, under such regulations and restrictions as their boards of directors may prescribe, any lands, town lots, real estate, or other de-

scription of property as may be offered for that purpose: Provided, however, That the same shall be sold (except so much as may be necessary for the use of said roads or for the purposes aforesaid) within a reasonable time, and the proceeds applied for the construction of said roads or their appurtenances. (R. S. 1897, 5300; R. S. 1894, 5151; R. S. 1881, 3901.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 18. MAP AND PROFILE. 12. Every such company, before proceeding to construct a part of its road into or through any county named in its articles of association, shall make a map and profile of the route intended to be adopted by such company; which shall be certified by a majority of the directors, and filed in the office of the Clerk of such county, for the inspection and examination of all parties interested therein. (R. S. 1897, 5301; R. S. 1894, 5152; R. S. 1881, 3902.)

Sec. 19. GENERAL POWERS. 13. Every such corporation shall possess the general powers, and be subject to the liabilities and restrictions, expressed in the special powers following:

First. To cause such examination and surveys for the proposed railroad to be made as may be necessary to the selection of the most advantageous route for the railroad, and, for such purposes, by their officers, agents, and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Second. To receive, hold, and take such voluntary grants and donations of real estate and other personal property as shall be made to it to aid in the construction, maintenance and accommodation of such railroad; but the real estate thus received by voluntary grants shall be held and used for the purposes of such grants only.

Third. To purchase, and, by voluntary grants and donations, receive and take, and, by its officers, engineers, surveyors, and agents, enter upon, take possession of, hold, and use all such lands and real estate and other property as may be necessary for the construction and maintenance of its railroad stations, depots, and other accommodations necessary to accomplish the objects for which the corporation is created; but not until the compensation to be made therefor, as agreed upon by the parties or ascertained as hereinafter prescribed, shall have been paid to the owner or owners thereof, or deposited as hereinafter directed, unless the consent of such owner be given to enter into possession.

Fourth. To lay out its road not exceeding six rods wide, and to construct the same; and for the purposes of cuttings, embankments, and procuring stone and gravel, it may take as much more land, within the limits of its charter, in the manner provided hereinafter, as may be necessary for the proper construction and security of the road.

Fifth. To construct its road upon or across any stream of water, water-course, road, highway, railroad, or canal, so as not to interfere with the free use of the same, which the route of its road shall intersect, in such manner as to afford security for life and property; but the corporation shall restore the stream or water-course, road or highway, thus intersected, to its former state, or in a sufficient manner not to unnecessarily impair its usefulness or injure its franchises.

Sixth. To cross, intersect, join and unite its railroad with any other railroad before constructed, at any point on its route, and upon the grounds of such other railroad company, with the necessary turn-outs, sidings, switches, and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations can not agree upon the amount of compensation to be made therefor, or the points or manner of such crossings and connections, the same shall be ascertained and determined by commissioners, to be appointed as is provided hereinafter in respect to the taking of lands; but this section is not to affect the rights or franchises heretofore granted.

Seventh. To purchase lands or take them [in order that it] may change the line of its road, whenever a majority of the directors shall so determine, as is provided hereinafter; but no such change shall vary the general route of such road.

Eighth. To take, transport, carry, and convey persons and property on its railroad by the force and power of steam, of animals, or of any mechanical power, or by any combination of them, and receive tolls or compensation therefor.

Ninth. To erect and maintain all necessary and convenient buildings, stations, depots, fixtures, and machinery for the accommodation and use of their passengers, freight, and business, and obtain and hold the lands necessary therefor.

Tenth. To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor. (R. S. 1897, 5302; R. S. 1894, 5153; R. S. 1881, 3903.)

[1897, p. 237. Approved and in force March 8, 1897.]

Sec. 20. CROSSINGS OF RAILROADS—GRADE. 1. Where it becomes necessary for the track of one railroad company to cross the track of another railroad company, unless the manner of making such crossings shall be agreed to between such companies, it shall be the duty of the Circuit Court of the county wherein such crossing is located, or the Judge thereof in vacation, to ascertain and define by its decree the mode of such crossing which will inflict the least practicable injury upon the rights of the company owning the road which is intended to be crossed; and if in the judgment of such court it is reasonable and practicable to avoid a grade crossing, it shall by its process prevent a crossing at grade. (R. S. 1897, 5303.)

Sec. 21. INTERLOCKING SWITCHES—DRAWBRIDGE—APPROVAL OF PLANS—STOPPING TRAIN. 2. When in case two or more railroads, or a railroad and an electric road crossing each other at a common grade, or any railroad crossing a stream by any swing or drawbridge, shall, by a system of interlocking, or by other works or fixtures to be erected by them or either of them, render it safe for engines or trains to pass over such crossing or bridge without stopping, and such system of interlocking works or fixtures shall first be approved by the Auditor of State, and the plan of such interlocking works or fixtures for such crossing or bridge designating the plan of crossing shall have been filed with such Auditor, then and in that case it is hereby made lawful for the engines and trains of such railroad or railroads to pass over such crossing or bridge without stopping, any law or the provisions of any law now in force to the contrary notwithstanding: Provided, That the said Auditor shall have and is hereby given power in case such interlocking system or other fixtures shall in his judgment prove to be unsafe or impracticable, to order the same discontinued, opportunity first being given to the person or company operating the same to be heard before said Auditor as to the propriety of such order. In case such order is made and enforced, the existing statutes relative to stopping at crossings shall apply until such time as a device approved by said Auditor is substituted. (R. S. 1897, 5304.)

Sec. 22. PETITION TO AUDITOR—HEARING—ORDER. 3. In case where the tracks of two or more railroads, or the tracks of a railroad and an electric railroad cross each other at common grade in this State, any company owning any one of such tracks, whose managers

may desire to unite with others in protecting such crossing with interlocking or other safety devices, and shall be unable to agree with such others on the matter, may file with the said Auditor a petition stating the facts of the situation, and asking said Auditor to order such crossing to be protected by interlocking or other safety devices; said petition shall be accompanied by a plan showing the location of all tracks and switches, and upon the filing thereof notice shall be given to each company or persons owning or operating any track involved in such crossing, and the said Auditor thereupon view the site of such crossing, and shall, as soon as practicable, appoint a time and place for the hearing of such petition. At the time and place named for hearing, unless the hearing is for good cause continued, said Auditor shall proceed to try the question of whether or not the crossing shall be protected by interlocking or other safety devices, and shall give all companies and parties interested an opportunity to be fully heard; and after such hearing said Auditor shall enter an order upon a record book or docket, to be kept for that purpose, granting or denying such petition; and in case the same is granted, such order shall prescribe the interlocking or other safety devices for such crossing and all other matters which may be deemed proper to the efficient protection of such crossing, and in such order the Auditor shall designate the proportion of the cost of the construction of such plant, and the expense of maintaining and operating the same, which each of the companies or persons concerned shall pay, and shall also fix the time within which such appliance shall be put in, such time, however, not to exceed ninety days from the making of such order. (R. S. 1897, 5305.)

Sec. 23. COSTS—SIDETRACKS. 4. In case, however, one railroad company or an electric railroad company shall hereafter cross at grade with its track or tracks, the track or tracks of another railroad, the railroad company or the electric railroad company seeking to cross at grade shall be compelled to interlock such crossing to the satisfaction of the said Auditor, and to pay all cost of such appliance, together with the expense of putting them in and the future maintenance and operation thereof: Provided, This Act shall not apply to crossings of sidetracks only. (R. S. 1897, 5306.)

Sec. 24. STOPPING TRAIN AT CROSSINGS. 5. Whenever interlocking or other safety devices are constructed and maintained in compliance with section three or four of this Act, then and in that case it shall be lawful for the engines and trains of such railroad or railroads, and the cars of such electric railroad, to pass over such crossing

without stopping, any law or the provisions of any law now in force to the contrary notwithstanding; and all such other provisions of law contrary thereto are hereby declared not to be applicable in such case. (R. S. 1897, 5307.)

Sec. 25. PENALTY. 6. Any person, company or corporation refusing or neglecting to comply with any order made by said Auditor in pursuance of this Act, shall forfeit and pay a penalty of five hundred dollars per week for each week of such refusal and neglect, the same to be recovered in an action of debt in the name of the State of Indiana, and to be paid when collected into the county treasury of any county in which such suit may be tried. (R. S. 1897, 5308.)

Sec. 26. ENGINEER APPOINTED BY AUDITOR. 7. The Auditor of State, if he deems it advisable, may appoint a competent civil engineer to examine such proposed plan, and report the result of such examination for the information of said Auditor. (R. S. 1897, 5309.)

Sec. 27. ALLOWANCE TO AUDITOR. 8. The Auditor shall be allowed for his services ten dollars for every day in which he shall be engaged in such duty, and the engineer shall be allowed such reasonable sum as the Auditor shall award. (R. S. 1897, 5310.)

[1873, p. 186. Approved and in force March 7, 1873.]

Sec. 28. CROSSING RAILROAD TRACK. 1. Where it becomes necessary for the track of one railroad company to cross the track of another railroad company, the company owning the road last constructed at such crossing shall, unless otherwise agreed to between such companies, be at the exclusive expense of constructing such crossing in a manner to be convenient and safe for both companies. (R. S. 1897, 5311; R. S. 1894, 5154; R. S. 1881, 3904.)

Sec. 29. REPAIRS OF CROSSINGS. 2. Whenever such railroad crossing is constructed in the manner provided for in the preceding section, it shall be the duty of each company, respectively, to maintain and keep in repair its own track, so as at all times to provide a ready, safe, and convenient crossing for all locomotives or trains passing on either road at such point. (R. S. 1897, 5312; R. S. 1894, 5155; R. S. 1881, 3905.)

[1895, p. 233. Approved and in force March 11, 1895.]

Sec. 30. GRADING CROSSINGS IN TOWN OR CITY. 1. It shall be the duty of each railroad company whose road or tracks cross, or shall hereafter cross, any street, avenue, or alley in any incorporated town or city in the State of Indiana, which said street, avenue or alley has been, or shall hereafter be, by addition, plat or otherwise, dedicated to the public use, to properly grade and plank or gravel its road and tracks at its intersection with the crossing of said street, avenue or alley in accordance with the grade of said street or avenue, in such manner as to afford security for life and property at said intersection and crossing. (R. S. 1897, 5313. See also R. S. 1897, 3608, and 3611; R. S. 1894, 3542.)

Sec. 31. PENALTY. 2. Every such railroad company which fails or neglects to comply with the provisions of the preceding section after thirty days' written notice by the authorities of such city or town shall be served on such railroad company shall be held liable therefor to the State of Indiana in a penalty of not less than twenty dollars nor more than fifty dollars, to be recovered in a civil action at the suit of said State, in the Circuit or Superior Court of any county in which said crossing may be located. (R. S. 1897, 5314.)

Sec. 32. HOW SUITS PROSECUTED. 3. All actions for the recovery of the penalties prescribed in the preceding section shall be prosecuted in the name of the State of Indiana by the Prosecuting Attorney of any county, when such failure or neglect as aforesaid may occur, and such Prosecuting Attorney shall be entitled to recover and receive for his services in such cases, as a docket fee, ten dollars in each case, to be taxed as part of the costs in such cases. (R. S. 1897, 5315.)

Sec. 33. SCHOOL FUND RECEIVES PENALTIES. 4. All penalties collected under the provisions of this Act shall, by the Clerk of the Court where assessed and recovered, be paid over to the Treasurer of the county in which said suit was instituted for the benefit of the common school fund of the State. (R. S. 1897, 5316.)

Sec. 34. TOWN OR CITY MAY GRADE CROSSINGS AND SUE RAILROAD. 5. Should any such railroad company fail or neglect to comply with the provisions of section one of this Act within the time prescribed in the notice hereinbefore provided for, then said

town or city may have said work done at said crossing and intersection in the manner prescribed in said section, and recover the amount of the cost and expenses thereof, including reasonable attorney fees, from said railroad company by suit in any court of competent jurisdiction. (R. S. 1897, 5317.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 35. TITLE BY APPROPRIATION. 14. In case any company formed under this Act is unable to agree for the purchase of any real estate in any county, which may be required for the construction of the track, turn-outs, and water-stations, it shall have the right to acquire the title to the same in the manner and by the special proceedings prescribed in this Act. (R. S. 1897, 5318; R. S. 1894, 5159; R. S. 1881, 3906.)

Sec. 36. PROCEEDINGS TO APPROPRIATE. 15. Such company is hereby authorized to enter upon any land for the purpose of examining and surveying its railroad line, and may appropriate so much thereof as may be deemed necessary for its railroad, including necessary side-tracks and water-stations, materials for constructing (except timber), a right-of-way over adjacent lands sufficient to enable such company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains. The corporation shall forthwith deposit with the Clerk of the Circuit Court, or other court of record of the county where the land lies, a description of the rights and interests intended to be appropriated; and such land, rights and interests shall belong to such company, to use for the purpose specified, by making or tendering payment as hereinafter provided. The corporation may, by its directors, purchase any such lands, materials, right-of-way, or interest of the owner of such land, or, in case the same is owned by a person insane or an infant, at a price to be agreed upon by the parent or regularly constituted guardian of said insane person or infant, if the same shall be approved by the court in which the description aforesaid shall be filed; and on such agreement and approval, the owner, guardian, or parent, as the case may be, shall convey the said premises, so purchased, in fee-simple or otherwise, as the parties may agree, to such railroad company; and the deed, when made, shall be deemed valid in law. If the corporation shall not agree with the owner of the land, or with his guardian, if the owner be incapable of contracting, touching the damages sustained by such appropriation, such corporation shall deliver to such

owner or guardian, if within the county, a copy of such instrument of appropriation. If the owner (or his guardian, in case such owner is incapable of contracting) be unknown or do not reside within the county, such corporation shall publish, in some newspaper of general circulation in the county, for the term of three weeks, an advertisement reciting the substance of such instrument of appropriation. Upon filing such Act of appropriation and delivery of such copy, or making such publication, the Circuit Court or other Court of record in the county where the land lies, or any Judge thereof in vacation, upon the application of either party, shall appoint, by warrant, three disinterested freeholders of such county to appraise the damages which the owner of the land may sustain by such appropriation. Such appraisers shall be duly sworn. They shall consider the injury which such owner may sustain by reason of such railroad; and shall forthwith return their assessment of damages to the Clerk of such Court, setting forth the value of the property taken or injury done to the property which they assess to the owner, or owners separately, to be by him filed and recorded; and, thereupon, such corporation shall pay to said Clerk the amount thus assessed, or tender the same to the party in whose favor the damages are awarded or assessed; and on making payment or tender thereof in the manner herein required, it shall be lawful for such corporation to hold the interests in such lands or materials so appropriated, and the privilege of using any materials on said roadway and within fifty feet on each side of the centre of such roadway, for the uses aforesaid. The cost of such award shall be paid by such company; and on notice by any party interested and showing said proceedings, the Court may order payment thereof, and enforce such payment by execution. The award of said arbitrators may be reviewed by the Circuit Court or other Court in which such proceedings may be had, on written exceptions filed by either party in the Clerk's office, within ten days after the filing of such award; and the Court shall take such order therein as right and justice may require, by ordering a new appraisalment, on good cause shown: Provided, That notwithstanding such appeal, such company may take possession of the property therein described, as aforesaid, and the subsequent proceedings on the appeal shall only affect the amount of compensation to be allowed. If, prior to the assessment, the corporation shall tender to such owner (or his guardian, if he be unable to contract) an amount equal to the award afterward made, exclusive of costs, the costs of arbitration shall be paid, equally, by such company and such owner or guardian. (R. S. 1897, 5319; R. S. 1894, 5160; R. S. 1881, 3907.)

[1889, p. 352. Approved March 9, 1889. In force May 10, 1889.]

Sec. 37. OTHER COMPANIES MAY ADOPT THIS ACT.

1. Any railroad company organized under the laws of the State of Indiana but not under an Act of the Legislature of said State, entitled "An Act to provide for the incorporation of railroad companies," approved May 11, 1852, may adopt the provisions of said Act for condemning real estate: Provided, That nothing herein contained shall be deemed or held to authorize such corporations to condemn for any purpose or to any extent not authorized by its charter, but such company adopting the provisions of said Act shall not condemn more, or for any purpose than as authorized by its charter; neither shall such corporation be deemed to have surrendered or abandoned its charter by condemning real estate as herein authorized. (R. S. 1897, 5320; R. S. 1894, 5161.)

Sec. 38. PENDING LITIGATION. 2. This Act shall not apply to any pending litigation, and such litigation now pending may be prosecuted to effect under existing laws the same as though this Act had not passed (R. S. 1897, 5321; R. S. 1894, 5162.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 39. ADVERSE CLAIMANTS. 16. If there be adverse or conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the Court may direct the money to be paid into the said Court by the company, or take security for the same until it can determine who is entitled to the same, and shall direct to whom the same shall be paid; and may, in its discretion, order a reference, to ascertain the facts on which such determination and order are to be made. (R. S. 1897, 5322; R. S. 1894, 5163; R. S. 1881, 3908.)

Sec. 40. UNKNOWN PARTIES—AMENDMENTS. 17. The Court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The Court shall also have power, at any time, to amend any defect or informality in any of the special proceedings authorized by this Act as may be necessary, or to cause new parties to be added, and to direct such further notice to be given to any party

in interest, as it deems proper; and also to appoint other commissioners in the place of any who shall die, or refuse or neglect or are unable to serve, or who may leave or be absent from the State. (R. S. 1897, 5323; R. S. 1894, 5164; R. S. 1881, 3909.)

Sec. 41. DEFECTIVE TITLE. 18. At any time after an attempt to acquire title by appraisal of damages or otherwise, if it shall be found that the title thereby attempted to be acquired is defective, the company may proceed, anew, to acquire or perfect the same in the same manner as if no appraisal had been made. At any stage of such proceedings, the Court may authorize the corporation, if in possession, to continue in possession, and, if not in possession, to take possession of and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions and proceedings against the company, or any officer, agent, or workman of such company, on account thereof, on such company paying into Court a sufficient sum (as the Court may direct) to pay the compensation therefor when finally ascertained; and, in every such case, the party interested in such real estate may conduct the proceedings to a conclusion, if the company delay or omit to prosecute the same. (R. S. 1897, 5324; R. S. 1894, 5165; R. S. 1881, 3910.)

[1893, p. 335. Approved and in force March 4, 1893.]

Sec. 42. RECORD OF RIGHT OF WAY. 1. Any railroad corporations, lessee or assignee, or receiver, or other person or corporation, running, controlling or operating, or that may hereafter construct, build, run, control or operate any railroad into or through the State shall, within forty-five days from the date of execution of any conveyance, lease, release or other contract affecting the right of way of any railroad hereafter constructed, record, or cause to be recorded, in the proper records in the Recorder's office of the county wherein the lands are situate so conveyed, leased, released or constructed. (R. S. 1897, 5325; R. S. 1894, 5166.)

Sec. 43. EFFECT OF FAILURE TO RECORD. 2. Every such conveyance, lease, release or other contracts affecting any right of way of any railroad not so recorded in forty-five days, as provided for in section one of this Act, shall be void as against any subsequent purchaser, lessee or mortgagee in good faith and for a valuable consideration. (R. S. 1897, 5326; 1894, 5167.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 44. BORROWING MONEY. 19. Such company may, from time to time, borrow such sums of money as it may deem necessary for completing or operating its railroad, and issue and dispose of its bonds for any amounts so borrowed, for such sums, and at such rate of interest as is allowed by the laws of the State where such contract is made, and may mortgage its corporate property and franchises to secure the payment of any debt contracted by such company; and the directors of such company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said company, at any time not exceeding fifteen years from the date of said bond, under such regulations as the company may adopt; and such company may sell its bonds, either within or without this State, at such rates and prices as permitted by law, and such sales shall be as valid as if such bonds should be sold at par value. (R. S. 1897, 5327; R. S. 1894, 5168; R. S. 1881, 3911.)

Sec. 45. PREFERRED STOCK. 20. For the purpose of providing means for the payment of its debts, and for the construction of its road, materials, or equipments, such company may issue preferred stock to an amount not exceeding one-half of the amount of its capital, with such priority over the remaining stock of such company, in the payment of dividends, as the directors of such company may determine and shall be approved by a majority of the stockholders. (R. S. 1897, 5328; R. S. 1894, 5169; R. S. 1881, 3912.)

[1893, p. 133. Approved and in force February 22, 1893.]

Sec. 46. PREFERRED STOCK. 1. For the purpose of exchanging the same for its common stock or for such part thereof as the directors of such company may determine and shall be approved by a majority of the stockholders, any railroad company heretofore or hereafter organized may issue preferred stock to an amount not exceeding one-half of the amount of its capital, with such priority over the remaining stock of such company in the payment of dividends as the directors of such company may determine and shall be approved by a majority of the stockholders: Provided, That the total capital of such company shall not be diminished thereby. (R. S. 1897, 5329; R. S. 1894, 5140.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 47. ALTERING LINE. 21. If, at any time after the location of the track of such road, in whole or in part, and the filing of the map thereof, it shall appear to the directors of such company that the line thereof may be improved, such directors may, from time to time, alter the line, and cause a new map to be filed in the office where the map showing the first location is filed, and may thereupon take possession of lands embraced in such new location that may be required for the construction and maintenance of such road on such new line, either by agreement with the owner or by such proceedings as are authorized under the preceding section of this Act, and use the same in place of the line for which the new is substituted. But nothing in this Act shall be so construed as to confer upon any railroad company already incorporated any power to locate its road on any route which would not have been authorized by the charter previously granted. And nothing in this Act contained shall authorize the said company to make a location of its track within any city without the consent of the Common Council of said city; nor shall such company have power so to change its road as to avoid any point named in its articles of association. (R. S. 1897, 5330; R. S. 1894, 5170; R. S. 1881, 3913.)

[1865 S., p. 118. Approved and in force December 20, 1865.]

Sec. 48. LOCAL ALTERATION. 1. If at any time after the location of the line of any railroad chartered by this State, and the filing of the map thereof, it shall appear to the directors of such company that the line thereof is unnecessarily dangerous, inconvenient, or expensive to operate, by reason of unavoidable causes, grades, or other serious errors in location, such directors may make local alterations of the line, and cause a new map to be filed in the office where the map showing the first location is filed, and may thereupon take possession of the lands embraced in such new location which may be necessary for the construction and maintenance of such road on such altered line, either by agreement with the owner or by such proceedings as are authorized by the charter of such company, and may use such new line in the place of the one for which it is substituted. But nothing in this Act shall be so construed as to confer upon any such railroad company any power to locate its road on any route which would not have been authorized by its charter; and nothing in this Act contained shall authorize such company to make a location of its track within any city without the consent of the Common Council of such city, nor to change its road so as to avoid any point named in its charter. And

any change so made by any railroad company shall subject the same to the payment of all damages that may be sustained by any parties from such change, to be recovered the same as other damages are now recovered: Provided, That if any railroad company propose to change any part of its track for a distance of more than one mile, or to seek to re-locate its road, it shall, previous to any such change or re-location, pay to the owner or owners of any real estate lying along or near the route or line of said road, from which said track is proposed to be taken, all damages that may accrue to such owner or owners on account of such removal. Said damages shall be assessed in the same manner as lands taken for railroad purposes in pursuance of the statute now in force in this State; and said damages shall be assessed and paid to the owner or owners of said lands or paid into the county treasury to the credit of the owner or owners of said lands, previous to the change or re-location of said railroad. (R. S. 1897, 5331; R. S. 1894, 5171; R. S. 1881, 3914.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 49. CROSSING ROADS. 22. Whenever the track of such railroad shall cross a road or highway, such road or highway may be carried under or over the track, as may be most expedient; and in cases where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road or highway, or such new line, as may be deemed requisite by said directors. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained in the manner in this Act provided, as nearly as may be, and duly made by such corporation to the owners and persons interested in such lands; and the same, when so taken and compensation made, shall become part of such intersecting road or highway, in such manner and by such terms as the adjacent parts of such highway may be held for highway purposes. (R. S. 1897, 5332; R. S. 1894, 5172; R. S. 1881, 3915.)

[1891, p. 364. Approved and in force March 9, 1891.]

Sec. 50. FLAGMAN AT HIGHWAY CROSSING. 1. All railroads owned or operated in the State having more than two tracks across any public highway or road and used for switching purposes exclusively, or regularly, or if only one track and used for switching purposes, said railroad corporation shall, upon the order of the County

Commissioners in which said railroad is located, place a flagman at said crossing and maintain the same at their expense from six o'clock A. M. to eight o'clock P. M., of each and every day, or so long as said Commissioners deem it necessary. (R. S. 1897, 5333; R. S. 1894, 5174.)

Sec. 51. PENALTY. 2. Should such railroad corporation neglect or refuse to comply with said order, they shall forfeit and pay to the State of Indiana not less than one hundred dollars nor more than one thousand dollars. (R. S. 1897, 5334; R. S. 1894, 5175.)

[1893, p. 302. Approved March 4, 1893. In force May 18, 1893.]

Sec. 52. LIGHTS AT STREET CROSSINGS. 1. The Common Councils of all cities of this State, not working under a special charter granted by the Legislature of the State of Indiana, shall have power to provide by ordinance or resolution for the security and safety of citizens and other persons from the running of trains through any city by requiring railroad companies running and operating a railroad through any city to keep and maintain lights on all nights that the Common Council may direct, at the points where the railroad track cross a street in any city, and may in such ordinance or resolution provide what kind of lights the railroad company shall maintain, and the manner of enforcing the compliance with the said resolution or ordinance by the railroad company, and for that purpose shall have power to pass and enforce a penal ordinance: Provided, That no city shall have authority under this Act to pass any resolution or ordinance requiring any railroad company to maintain any different kinds of lights than that maintained by said city. (R. S. 1897, 5335; R. S. 1894, 5173.)

[1 R. S., 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 53. PUBLIC LANDS. 23. If any corporation shall, for its purposes aforesaid, require any land belonging to the State or to any county or town, the General Assembly and the county and town officers, respectively, having charge of such lands, may grant such lands to such corporation upon such terms as shall be agreed upon; and if they shall not so agree, the same may be taken by the corporation in the same manner as provided in other cases. No railroad shall be located upon or across the grounds of the State occupied by the Institutions for the Insane, the Blind, or the Deaf and Dumb. (R. S. 1897, 5336; R. S. 1894, 5176; R. S. 1881, 3916.)

Sec. 54. OFFICERS' BADGES. 24. Every conductor, baggage-master, engineer, brakeman, or other servant of any such railroad corporation, employed on a passenger train or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office and the initial letters of the style of the corporation by which he is employed. No collector or conductor, without such badge, shall demand or be entitled to receive from any passenger any fare, toll, or ticket, or exercise any of the powers of his office; and no other of said officers or servants, without such badge shall have any authority to meddle or interfere with any passenger or property. (R. S. 1897, 5337; R. S. 1894, 5177; R. S. 1881, 3917.)

Sec. 55. ANNUAL REPORT. 25. Every such corporation shall make an annual report to the Secretary of State of the operations of the year ending on the first day of January; which report shall be verified by the oaths of the treasurer and acting superintendent of operations, and filed in his office by the tenth day of January in each year. and shall state—

First. The capital stock, and the amount actually paid in.

Second. The amount expended for the purchase of lands for the construction of the road, for buildings, and for engines and cars, respectively.

Third. The amount and nature of its indebtedness, and the amounts due the corporation.

Fourth. The amount received for the transportation of passengers, of property, of mails, and from other sources.

Fifth. The amount of freight (specifying the quantity in tons) of the products of the forest, of animals, of vegetable food and other agricultural products, manufactures, merchandise, and other articles.

Sixth. The amount paid for repairs, engines, cars, buildings, and salaries.

Seventh. The number and amount of dividends, and when paid.

Eighth. The number of engine-houses and shops, and of engines and cars, and their character.

Ninth. The number of miles run by passenger, freight, and other trains, respectively. (R. S. 1897, 5338; R. S. 1894, 5178; R. S. 1881, 3918.)

Sec. 56. LIEN FOR TAXES AND DEBTS. 26. The State shall have a lien upon all railroads of such corporations, and of their appurtenances and stock therein, for all penalties, taxes, and dues which may accrue to the State from such corporations; which lien of

the State shall have precedence of all demands, judgments, or decrees against said corporations. And the citizens of this State shall have a lien upon all personal property of said corporations, to the amount of one hundred dollars, for all debts originally contracted within this State; which, after said lien of the State, shall take precedence of all other debts, demands, judgments or decrees, liens or mortgages against such corporations. (R. S. 1897, 5339; R. S. 1894, 5179; R. S. 1881, 3919.)

Sec. 57. UNITED STATES MAILS. 27. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on its road; and in case such corporation shall not agree to the rates of transportation thereof, and as to time, rate of speed, manner, and condition of carrying the same, the Governor of this State may appoint three commissioners, who, or a majority of them, after fifteen days' notice, in writing, of the time and place of meeting to the corporation, shall determine and fix the prices, times, and conditions aforesaid; but such prices shall not be less for carrying said mails in the regular passenger trains than the amount which said corporation would receive as freight on a like weight of merchandise transported in their merchandise train and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours and at a higher [rate of] speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation therefor. (R. S. 1897, 5340; R. S. 1894, 5180; R. S. 1881, 3920.)

Sec. 58. NON-PAYING PASSENGER PUT OFF. 28. If any passenger shall refuse to pay his fare or toll, the conductor of the train or the servants of the corporation may put him out of the cars at any usual stopping-place. (R. S. 1897, 5341; R. S. 1894, 5181; R. S. 1881, 3921.)

[1875, p. 125. Approved and in force March 10, 1875.]

Sec. 59. DISORDERLY PASSENGER. 2. When any passenger shall be guilty of disorderly conduct, shall use any obscene language, or shall play any games of cards or chance for money, upon any passenger train, the conductor of such train is hereby authorized to stop his train at any place where such offense has been committed, and eject such passenger from the train, using only such force as may be necessary to accomplish such removal, and may command the as-

sistance of the employes of the railroad company to assist in such removal; but, before doing so, he shall tender to such passenger such proportion of the fare he has paid as the distance he then is from the place to which he has paid his fare bears to the whole distance for which he has paid his fare. (R. S. 1897, 5342; R. S. 1894, 5182; R. S. 1881, 3922.)

Sec. 60. CONDUCTORS HAVE POLICE POWERS. 1. The conductors of all trains carrying passengers within this State shall be invested with police powers while on duty on their respective trains. (R. S. 1897, 5343; R. S. 1894, 5183; R. S. 1881, 3923.)

Sec. 61. ARREST OF PASSENGER. 3. When any passenger shall be guilty of any crime or misdemeanor upon any passenger train, the conductor of such train may arrest such passenger and take him before any Justice of the Peace in the county in which such crime or misdemeanor is committed, and file an affidavit before such Justice of the Peace, charging him with such crime or misdemeanor. (R. S. 1897, 5344; R. S. 1894, 5184; R. S. 1881, 3924.)

[1895, p. 99. Approved March 5, 1895. In force June 28, 1895.]

Sec. 62. WAITING ROOMS — WATER CLOSETS. 1. All railroad companies operating lines through cities and towns of one hundred population or more shall provide and maintain suitable waiting-rooms together with separate water closets for men and women, for the convenience of the traveling public, and shall keep such rooms open for the period of not less than one hour next preceding the arrival of all passenger trains that are allowed by schedule or flagging, to stop at all stations. (R. S. 1897, 5345.)

Sec. 63. PENALTY. 2. Any railroad company failing to comply with the provisions of the above section shall be guilty of a misdemeanor and be fined in any sum not more than five hundred dollars and not less than twenty dollars for each offense. (R. S. 1897, 5346.)

[1 R. S., 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 64. DUTY AS TO RUNNING TRAINS. 29. Every such corporation shall start and run its cars for the transportation of persons and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and property as shall, within a reasonable time

previous thereto, offer or be offered for transportation at the place of starting, at the junctions of other railroads, and at sidings and stopping-places established for receiving and discharging way-passengers and freight; and shall take, transport, and discharge such passengers and property at, from, and to such places, on the due payment of tolls, freight, or fare therefor. (R. S. 1897, 5347; R. S. 1894, 5185; R. S. 1881, 3925.)

[1897, p. 176. Approved March 6, 1897. In force April 14, 1897.]

Sec. 65. ARRIVAL OF TRAINS, NOTICE. 1. Every corporation, company or person operating a railroad within this State, shall immediately after taking effect of this Act, cause to be placed in a conspicuous place in each passenger depot of such company located at any station in this State, at which there is a telegraph office, a blackboard at least three feet long and two feet wide, upon which such corporation, company or person, shall cause to be written, at least thirty minutes before the schedule time for the arrival of each passenger train stopping upon such route at such station, the fact whether such train is on schedule time or not, and if late, how much: Provided, however, That any device, indicator or register, painted or printed in large letters and figures giving the required information set forth in this Act, in a more legible form than is practicable on a blackboard, may be substituted in place of said blackboard: And, provided, further, That the provisions of this Act shall not apply to any freight train carrying passengers or any train carrying both freight and passengers, or to any stations during hours when railroad companies do not regularly have a telegraph operator or operators on duty at any such telegraph office. (R. S. 1897, 5348.)

[1889, p. 279. Approved March 9, 1889. In force May 10, 1889.]

Sec. 66. PENALTY. 2. For each violation of the provisions of this Act, in failing to report or in making a false report, such corporation, company or person so neglecting or refusing to comply with the provisions of this Act shall forfeit and pay the sum of twenty-five dollars, to be recovered in a civil action, to be prosecuted by the Prosecuting Attorney of the county in which the neglect or refusal occurs, in the name of the State of Indiana, one-half of which shall go to said Prosecuting Attorney and the remainder shall be paid over to the county in which such proceedings are had, and shall be part of the common school fund. (R. S. 1897, 5349; R. S. 1894, 5187.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 67. REFUSING PASSENGERS OR FREIGHT. 30. In case of the refusal by such corporation or its agents so to take and transport any passenger or property, or to deliver the same at the regularly appointed place, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit. (R. S. 1897, 5350; R. S. 1894, 5190; R. S. 1881, 3926.)

Sec. 68. FORMING PASSENGER TRAIN. 31. In forming a passenger train, baggage, freight, merchandise, or lumber cars shall not be placed in rear of passenger cars; and if they or any of them shall be so placed, and any accident shall happen to life or limb, the officer or agent who so directed or knowingly suffered such arrangement, and the conductor or engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly. (R. S. 1897, 5351; R. S. 1894, 5191; R. S. 1881, 3927.)

Sec. 69. PASSENGER VIOLATING RULES. 32. In case any passenger on any railroad shall be injured on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury: Provided, Said company, at the time, furnished room inside its passenger cars sufficient for the proper accommodation of its passengers. (R. S. 1897, 5352; R. S. 1894, 5192; R. S. 1881, 3928.)

Sec. 70. MAP AND PROFILE. 33. Every corporation shall, within a reasonable time after its road shall be located, cause to be made—

First. A map and profile thereof, and of the land taken and obtained for the use thereof, and file the same in the office of the Secretary of State; and also like maps of the parts thereof located in different counties, and file the same in the office of the Clerk of the county in which said parts of said road shall be, there to remain as of record forever.

Second. A certificate specifying the line upon which it is proposed to construct the railroad, and the grades and curves. (R. S. 1897, 5353; R. S. 1894, 5193; R. S. 1881, 3929.)

Sec. 71. WHEN TO BEGIN AND FINISH CONSTRUCTION. 34. If any such corporation shall not, within three years

after its incorporation, begin the construction of its road, and expend thereon five per cent. of the amount of its capital, and finish the road and put it in full operation in ten years thereafter, its act of incorporation shall become void. (R. S. 1897, 5354; R. S. 1894, 5194; R. S. 1881, 3930.)

Sec. 72. INCREASE OF CAPITAL STOCK. 35. Any railroad company may increase the amount of its capital stock, by filing in the office of the Secretary of State a certificate stating the amount of such desired increase and the reasons or necessity for the same, signed by the president and a majority of the directors, and attested by the secretary and seal of such company. (R. S. 1897, 5355; R. S. 1894, 5195; R. S. 1881, 3931.)

[1897, p. 38. Approved and in force February 18, 1897.]

Sec. 73. EXISTING COMPANIES MAY ACCEPT ACT. 36. All existing railroad companies may acquire all the powers or benefits conferred by this Act, by filing an acceptance thereof in the office of the Secretary of State, properly attested as the corporate act of such company, and the acceptance of any part of this Act shall be deemed and taken to be an acceptance of the whole Act, and thereupon such company shall possess such powers so accepted and be subject to the obligations and restrictions herein specified, as fully as they would have had and been if organized under this Act: Provided, however, That whenever any railroad organized under any special charter granted by the State of Indiana, shall hereafter accept or shall have heretofore accepted the provisions of the general railroad law as embodied in said Act approved May 11, 1852, all rights and liabilities whether inchoate or complete, in favor of the State of Indiana, shall be and they are hereby expressly preserved to said State notwithstanding such acceptance, and said State may hereafter, by appropriate legislation, make such provision for the determination and enforcement of said rights as the General Assembly may deem appropriate, and notwithstanding such acceptance any and all provisions of said charter may be amended, revised, repealed or added to as though said charter was in full force and effect, and as though said railroad company or companies had not accepted the provisions of said Act of May 11, 1852. (R. S. 1897, 5356.)

[1 R. S. 1852, p. 409. Approved May 11, 1852. In force May 6, 1853.]

Sec. 74. AMENDMENT OR REPEAL. 37. This Act may be amended or repealed at the discretion of the Legislature. (R. S. 1897, 5357; R. S. 1894, 5197; R. S. 1881, 3933.)

[1865 S., p. 120. Approved December 20, 1865. In force April 13, 1866.]

Sec. 75. WHEN STOCKHOLDERS INDIVIDUALLY LIABLE. 38. The stockholders shall be individually liable to laborers, their executors, administrators, and assigns for all labor done in the construction of said road that shall remain unpaid after the assets of the corporation shall have been exhausted. (R. S. 1897, 5358; R. S. 1894, 5198; R. S. 1881, 3934.)

[1 R. S. 1852, p. 425. Approved June 18, 1852. In force May 6, 1853.]

Sec. 76. CROSSING RAILROAD, WHEN FORBIDDEN. 1. Nothing in said Act [1 R. S. 1852, p. 409] shall be construed to grant the power to any railroad company that may be organized under the provisions of this Act to cross or intersect any railroad now in course of construction, within forty miles of its terminus, where such terminus is within the corporate limits of a city in this State, situate on a navigable stream within two miles of the boundary line of two adjoining States, except within the corporate limits of such city. (R. S. 1897, 5359; R. S. 1894, 5199; R. S. 1881, 3935.)

Sec. 77. ACT, HOW CONSTRUED. 2. The provisions of this Act shall not be so construed as to affect, in any manner whatever, the construction of any railroad by any company at any time heretofore incorporated under any Act of incorporation passed by the General Assembly of the State of Indiana, upon the route designated in the Act of incorporation, or in anywise to impair the rights of such company, or to prevent or hinder the construction of any railroad having both of the terminations thereof within the limits of this State and not forming a regular connection with a railroad leading directly to some city situate upon the Ohio River beyond the limits of the State. (R. S. 1897, 5360; R. S. 1894, 5200; R. S. 1881, 3936.)

ARTICLE 2 — AFTER SALE.

SEC.

- 78. Re-adjustment — Incorporation — Evidence.
- 79. Purchasers enjoy former franchises.
- 80. When purchaser a foreign corporation.
- 81. Priority of lien.
- 82. Road, how sold.
- 83. New stock.
- 84. Payment of old debts.
- 85. Amendment or repeal.
- 86. Roads, how sold.
- 87. Incorporation by purchasers.
- 88. Franchises pass—Old stockholders released.

SEC.

- 89. Power to issue bonds.
- 90. Sinking fund—Preferred stock—Bondholders' votes.
- 91. Foreign corporation—Franchises.
- 92. Purchase and consolidation of branch roads.
- 93. Act applies to all sales.
- 94. Bonds of another company, guaranty of.
- 95. Sufficiency of petition.
- 96. Limitation.
- 97. Mortgagees, taking road by compromise, may incorporate.

[1861, p. 149. Approved and in force March 5, 1861.]

Sec. 78. RE-ADJUSTMENT — INCORPORATION — EVIDENCE. 1. In case a majority in interest of the creditors of a railroad company and a majority in interest of the stockholders of such company shall agree upon a plan for the re-adjustment or capitalization of the debt and stock thereof, upon an agreement as aforesaid, either before or after a sale of said railroad under judicial proceedings and a purchase at such sale by trustees on behalf of the parties to such agreement, all the franchises and powers, including the franchises to act as a corporation conferred by the charter of such railroad company, shall pass by such sale and vest in the said trustees, together with the railroad and all the other property embraced in the sale. In case any railroad situate wholly or partly within this State, or any part thereof situate within this State, shall, in pursuance of such agreement, be sold by virtue of any mortgage or mortgages or deed or deeds of trust, either by foreclosure or other proceeding in law or equity, or pursuant to any power in such mortgage or mortgages or deed or deeds of trust contained, or by the joint exercise of those authorities, as hereafter provided, the purchaser or purchasers of the same, or their survivor or survivors, or they and their or he and his associates, may form a corporation, by filing in the office of the Secretary of State a certificate, under their or his signature, specifying the name of such corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one year), the amount of the original capital, and the number of shares into which such capital is to be divided; and the persons signing the said certificate, and their successors, shall be a body politic and corporate by the name therein specified; and a copy of such certificate, attested by the signature of the Secretary of State or his deputy, shall, in all Courts and places,

be evidence of the due organization and existence of the said corporation and of the facts in the said certificate stated: Provided, That no sale under the provisions of this Act shall be valid unless notice thereof, stating time and place of sale, shall have been published in some newspaper of general circulation in the city of New York, and also by publishing said notice in at least one newspaper of general circulation published in each county in this State through which said railroad may run, not less than thirty nor more than sixty days, at the discretion of the Court ordering said sale, immediately preceding said sale. All sales of railroads made under the order or decree of a Court of record are hereby legalized as fully as though the sale had been made in pursuance of this Act: Provided, That nothing herein contained shall be construed to legalize the decree itself, or to correct any error therein, or to legalize the sale or conveyance of any real estate by or to any railroad company, or to legalize any consolidation by any railroad companies in this State, but only to confirm the sale of the road-bed, depot grounds, and such realty as is essential to the operations of the railroad, including also the rolling-stock, machinery, and equipment upon the road, as embraced in the decree. (R. S. 1897, 5361; R. S. 1894, 5201; R. S. 1881, 3937.)

Sec. 79. PURCHASERS ENJOY FORMER FRANCHISES.

2. Such corporation shall possess all the powers, rights, privileges, immunities, faculties, and franchises in respect to the said railroad, or the part thereof purchased as aforesaid, which were possessed or enjoyed by the corporation that owned or held the said railroad, previous to such sale, by virtue of its charter or amendments thereto or other laws of this State, or of any State not inconsistent with the laws of this State in which any part of the said railroad is situate. It shall also have power, by agreement of the persons forming the said corporation as aforesaid, or by a vote of a majority in the interest of the stockholders, at any time within six months after the formation of the said corporation, to assume any debts or liabilities of the said corporation which owned or held the said railroad before the said sale, and, in like manner and within a like period, to make such adjustment with any stockholders of the said last-mentioned corporation as it may deem expedient, and, for the said purposes, to use such portions of the bonds and stock it may be authorized to create as it may deem necessary, and in such manner as it may deem proper. It shall also have power to make and issue bonds, payable at such times and places and bearing such rates of interest as it may deem expedient, and to sell or dispose of such bonds at such prices and in such manner as it may deem

proper, and to secure the payment of any bonds which it may make issue, or assume to pay, by a mortgage or mortgages or deed or deeds of trust of its railroad or of any part thereof, or any other of its property, real or personal. It may include in such mortgage or mortgages or deed or deeds of trust any locomotives, cars, and other rolling-stock and equipments, and any machinery, tools, implements, fuel, and materials, whether then held or thereafter to be acquired for the constructing, operating, repairing, or replacing the said railroad, or any part thereof, or any of its equipments or appurtenances; all of which property, so included, whether then held or thereafter to be acquired, shall be subject to the lien and operation of such mortgage or mortgages or deed or deeds of trust, [together with] all franchises held by said corporation and connected with or relating to said railroad, and all corporate franchises of said company; which said franchises, in case of sale by virtue of any such mortgage or mortgages or deed or deeds of trust, are hereby declared to pass to the purchasers, so as to enable them to form a corporation in the manner herein prescribed, and to vest in such corporation all the faculties, powers, authorities, immunities, and franchises conferred by this Act. The said corporation shall have power to establish a sinking fund for the redemption of any of its debts; and shall likewise have power to issue capital stock to such aggregate amount as it shall deem necessary, not exceeding any limitation which may be fixed by agreement with the persons forming the said company, in the manner hereinbefore provided. It may establish preference in respect to dividends in favor of one or more classes of the said stock, in such order and manner and to such extent and with securities, as it may deem expedient; and may confer on holders of any bonds which it may issue or assume to pay, such rights to vote at all meetings of stockholders (not exceeding one vote for every one hundred dollars of the par amount of the said bonds) as may, by it, be deemed advisable; which rights, when once fixed, shall attach to and pass with such bonds, under such regulations as the by-laws may prescribe, to the successive holders thereof, but shall not subject any holders to any assessment by the said company, or to any liability for its debts, or entitle any holder to dividends. The said corporation shall also have capacity to hold and enjoy and exercise within other States the aforesaid faculties, powers, rights, immunities, and franchises, and such others as may be conferred upon it by any law of this State or of any other State in which any part of its railroad may be situate or in which it may do any part of its business, and to hold meetings of stockholders and directors, and to do all corporate acts and

all things without this State as validly as it may do the same within this State. (R. S. 1897, 5362; R. S. 1894, 5202; R. S. 1881, 3938.)

Sec. 80. WHEN PURCHASER A FOREIGN CORPORATION.

3. In case the part of any railroad situate within this State (a part of which is situate in another State) shall become vested in a corporation of such other State, and such corporation shall also acquire a part of such railroad situate in such other State, the said corporation may exercise and enjoy within this State, for the purpose of the said railroad and its business, so far as it may be endowed by the by-laws of the State of its creation with capacity to do so, all the powers, rights, faculties, privileges, immunities, and franchises enumerated in the preceding section, and its mortgages or trust deeds shall operate as therein specified. (R. S. 1897, 5363; R. S. 1894, 5203; R. S. 1881, 3939.)

Sec. 81. PRIORITY OF LIEN. 4. Next in the order of lien to the existing mortgage debt of the old road shall stand the amounts due the persons for labor performed, wood and other such materials furnished the old company in running the road, damages for killing stock, and right-of-way: Provided, That all the property of said company shall be liable for damages recovered against said company for stock killed or injured by them, and exempt from mortgage liens. (R. S. 1897, 5364; R. S. 1894, 5204; R. S. 1881, 3940.)

Sec. 82. ROAD, HOW SOLD. 5. So much of any railroad as lies in this State and is embraced in the mortgage or mortgages sought to be foreclosed, may be sold at such sale as an entirety; and the Court making a decree or order of sale may declare, in the order, where the principal office of the railroad company is situate within the State, and may order the sale to be made at the court house door of the county in which the principal office within the State is situate. (R. S. 1897, 5365; R. S. 1894, 5205; R. S. 1881, 3941.)

Sec. 83. NEW STOCK. 6. In case of the sale of a railroad, or any part thereof, as in the first section of this Act [Section 78] mentioned, full power is hereby given to the corporate authorities of the several counties, cities, townships, and other municipal corporations holding stock in the company by which such railroad was owned, and to all persons holding such stock in a fiduciary capacity, to surrender or assign such stock, and to accept and receive such new stock in any corporation which, after such sale, may become the owner of said

railroad or any part thereof, as may be apportioned or given in respect to the said first mentioned stock under any re-organization of the ownership of the said railroad. (R. S. 1897, 5366; R. S. 1894, 5206; R. S. 1881, 3942.)

Sec. 84. PAYMENT OF OLD* DEBTS. 7. No purchaser or purchasers of any railroad shall be entitled to any rights or benefits under this Act, until such purchaser or purchasers shall first assume and pay, in money or first-class or satisfactory securities, to be issued by the new corporation formed upon the sale or transfer of any railroad as herein provided for, as the creditor or creditors may elect, all ticket balances and back charges for freight, with interest, whether due upon account, judgment of a Court of record, bond, note, or other instrument in writing, which the former railroad corporation may have owed or been in arrears for, to any connecting railroad company operating a railroad entirely or in part in this State. (R. S. 1897, 5367; R. S. 1894, 5207; R. S. 1881, 3943.)

Sec. 85. AMENDMENT OR REPEAL. 8. This Act may be amended or repealed at the discretion of the Legislature. (R. S. 1897, 5368; R. S. 1894, 5208; R. S. 1881, 3944.)

[1865, p. 66. Approved and in force March 3, 1865.]

Sec. 86. ROADS, HOW SOLD. 1. In case of the sale of any railroad and its property, under or by the authority of any competent Court or Courts (part of which railroad may be situate within the State of Indiana, and part situate in an adjoining State, and embraced in the mortgage or mortgages or deed or deeds of trust), it may be sold at one time and place, as an entirety, at such point on the line of said railroad, either within or without the State, and upon such notice as the Court or Courts ordering such sale may direct. (R. S. 1897, 5369; R. S. 1894, 5209; R. S. 1881, 3945.)

Sec. 87. INCORPORATION BY PURCHASERS. 2. In case of the sale of any railroad and its property (situated wholly or partly within this State, or situated partly in this State and partly in an adjoining State) by virtue of any mortgage or mortgages or deed or deeds of trust, either by foreclosure or other judicial proceedings, or pursuant to any power contained in such mortgage or mortgages or deed or deeds of trust, or by the joint exercise of said powers and authorities, the purchaser or purchasers thereof, their survivor or survivors, or he or his or they or their associates or assigns, may form a corporation, by

filing in the office of the Secretary of State a certificate specifying the name and style of the corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one year), the amount of original capital, and the number of shares into which the capital is to be divided; and the persons signing said certificate, and their successors, shall be a body corporate and politic by the name in said certificate specified, with power to sue and be sued, contract and be contracted with, and maintain and operate the railroad in said certificate named, and transact all business connected with the same; and a copy of such certificate, attested by the signature of the Secretary of State or his deputy, shall, in all Courts and places, be evidence of the due organization and existence of the said corporation and of the matters in said certificate stated. (R. S. 1897, 5370; R. S. 1894, 5210; R. S. 1881, 3946.)

Sec. 88. FRANCHISES PASS — OLD STOCKHOLDERS RELEASED. 3. Such corporation shall possess all the powers, rights, privileges, immunities, and franchises in respect to said railroad, or the part thereof purchased as aforesaid, and of all the real and personal property appertaining to the same which were possessed or enjoyed by the corporation that owned or held the said railroad, previous to such sale, by virtue of its charter and amendments thereto and other laws of this State or of any State in which any part of said railroad is situate, not inconsistent with the laws of this State. And it shall have power, at any time after the formation of the corporation as aforesaid, to assume any debts and liabilities of the former corporation, and to make such adjustment and settlement with any stockholder or stockholders or creditor or creditors of such former corporation as may be deemed expedient, and, for such purpose, to use such portions of the bonds and stock of said corporation as may be deemed advisable and in such manner as said corporation may deem proper: Provided, That all subscribers to the original stock of said railroad company, their heirs, executors, and administrators, shall (by the acceptance or adoption of this Act by any purchaser or purchasers of any such railroad, as above provided) be released and discharged from all their unpaid subscriptions which shall not have been previously settled or arranged by agreement or compromise: And provided, further, That all holders of such capital stock which shall have been paid up, and all creditors of any such railroad company, shall have the right to accept and avail themselves of any trusts, agreements, and provisions for re-capitalization, for and during the period of six months from and after the passage of this Act: And provided,

further, That such corporation, when so formed and organized, shall, in suing and being sued, and in operating such railroad, be subject to the general laws of this State not inconsistent with the original charter of said road and the amendments thereto. (R. S. 1897, 5371; R. S. 1894, 5211; R. S. 1881, 3947.)

Sec. 89. POWER TO ISSUE BONDS. 4. Said corporation shall have power to make and issue bonds, bearing such rates of interests, not exceeding seven per cent. per annum, payable at such times and places, and in such amount or amounts, as it may deem expedient; and to sell and dispose of said bonds at such prices and in such manner as it may deem proper, to secure the payment of any bonds which it may make, issue, or assume to pay by mortgage or mortgages or deed or deeds of trust of its railroad, or any part thereof, and of its real and personal property and franchises; and to act as a corporation. All property of said corporation included in such mortgage or mortgages or deed or deeds of trust, whether then held or thereafter acquired, shall be subject to the operation and lien of such mortgage or mortgages or deed or deeds of trust; and in case of sale under the same, it shall pass to and become vested in the purchaser or purchasers thereof, so as to enable them to form a corporation in the manner herein prescribed and to vest in such corporation all the faculties, powers, authorities, immunities, and franchises conferred by this Act. (R. S. 1897, 5372; R. S. 1894, 5212; R. S. 1881, 3948.)

Sec. 90. SINKING FUND—PREFERRED STOCK—BOND-HOLDERS' VOTES. 5. Said corporation shall have power to establish a sinking fund for the payment necessary, not exceeding the amount named in the certificate of organization; may make preferred stock; make and establish preference in respect to dividends in favor of one or more classes of stock over and above other classes, and secure the same in such order and manner and to such extent as said corporation may deem expedient; and may confer upon the holders of any of the bonds which it may issue or assume to pay, the right to vote at all meetings of stockholders (not exceeding one vote for each one hundred dollars of the par amount of said bonds), if deemed expedient; which right to vote, when once fixed, shall attach to and pass with said bonds, under such regulations as said corporation may prescribe, but shall not subject the holder to any assessment made by said company or to any liability for its debts, or entitle any holder thereof to dividends. The said corporation shall have capacity to hold, enjoy, and exercise, within other States, the aforesaid faculties, powers,

rights, franchises, and immunities, and such others as may be conferred upon it by any law of this State or of any other State in which any portion of its railroad may be situate, or in which it may transact any part of its business; and may hold meetings of stockholders and of its board of directors, and do all corporate acts and things without this State as validly, and to the same extent, as it may do the same within this State, on the line of such road; and may make by-laws, rules, and regulations, in relation to its business, and the number of its directors, and the times and places of holding meetings of stockholders and directors; and may alter and change the same as may be deemed expedient. (R. S. 1897, 5373; R. S. 1894, 5213; R. S. 1881, 3949.)

Sec. 91. FOREIGN CORPORATION—FRANCHISES. 6. In case a portion of any railroad situated within this State (a part of which is situated in another State) shall become vested in a corporation of another State, the said corporation may exercise and enjoy within this State, and also in such other State, for the purposes of such railroad and its business, all the rights, powers, faculties, franchises, and privileges in this Act contained; and its mortgages and trust deeds shall operate and be binding as therein specified, and all sales under the same shall be valid and effectual. (R. S. 1897, 5374; R. S. 1894, 5214; R. S. 1881, 3950.)

Sec. 92. PURCHASE AND CONSOLIDATION OF BRANCH ROADS. 7. Any railroad company incorporated under the provisions of this Act shall have the power and authority to acquire, by purchase or contract, the road, road-bed, real and personal property, rights and franchises of any other railroad corporation or corporations which may cross or intersect the line of such railroad company or any part of the same, or the use and enjoyment thereof, in whole or in part; may also purchase or contract for the use and enjoyment, in whole or in part, of any railroad or railroads lying within adjoining States; and may assume such of the debts and liabilities of such corporations as may be deemed proper. Upon purchasing any such railroad or railroads, all the real and personal property of such corporations, so purchased, and also the rights, powers, and franchises of the same, shall become vested in the railroad company so purchasing the same, together with all the rights, powers, privileges, and franchises conferred by the charters of the road so purchased and all amendments thereto and the provisions of this Act; and the company so purchasing or acquiring the title to or use of such railroad or railroads shall have

power to complete, maintain, and operate the same. Any railroad company incorporated under the provisions of this Act shall also have power to consolidate with other railroad corporations in the continuous line either within or without this State, upon such terms as may be agreed upon by the corporations owning the same; and also shall have the power and authority to construct, equip, maintain, and operate branch railroads leading from the main line or from the termini of such railroad, from and to such points within this State or any adjoining State, as may be deemed expedient; and in constructing the same shall have the right to enter in and upon all lands; to survey routes; to receive donations of lands or moneys; to purchase and condemn lands required for the use of the road; to lay single or double tracks; and to cross all water-courses and public highways, not unnecessarily obstructing the same. In condemning lands for the use of such roads, it shall have all of the rights and powers conferred upon such corporations by their charters and amendments and the general laws of this State. All railroads purchased and branch roads constructed as aforesaid shall be vested in and become a part of the property of the corporation so purchasing or constructing the same, as aforesaid; and shall be, in all things, governed by the laws, rules, and regulations governing the corporation purchasing or constructing the same as aforesaid, and be operated as part of its line of road. Upon purchasing or constructing any railroad as hereinbefore provided, the corporation purchasing or constructing the same shall have power and authority to issue new stock to such extent as may be considered advisable, and the same to dispose of as hereinbefore provided; to issue and sell bonds to such extent as may be deemed expedient; and to secure the same by mortgages and deeds of trust upon all the real and personal property, rights, powers, and franchises of any railroad so purchased, constructed or in course of construction, as hereinbefore provided: Provided, That the provisions of this Act shall not be so construed as to authorize any railroad company organized under the same to consolidate with or acquire, by contract or purchase, the road, road-bed, real and personal property, rights and franchises of any railroad already built, equipped, and operated within the State of Indiana, and which may cross or intersect the line of the road of any company organizing under this Act; but the powers of consolidation and purchase shall be, and are hereby, limited and restricted to such roads within the State of Indiana as may cross and intersect the same, and which have not been equipped and operated in whole or in part. (R. S. 1897, 5375; R. S. 1894, 5215; R. S. 1881, 3951.)

[1865 S., p. 120. Approved and in force December 20, 1865.]

Sec. 93. ACT APPLIES TO ALL SALES. 1. The Act entitled "An Act to authorize, regulate, and confirm the sale of railroads; to enable purchasers of the same to form corporations, and to exercise corporate powers; and to define their rights, powers, and privileges; and to enable such corporations to purchase and construct connecting and branch roads, and to operate and maintain the same," approved March 3, 1865, shall be held, and the same is hereby declared, to apply to and embrace any and all sales or purchases of railroads, their franchises, rights, and privileges, under judicial decrees or judgments of any of the Courts of the State of Indiana or of the United States, at any time, whether said sale under such decrees or judgments may have occurred before or after the passage of said Act. (R. S. 1897, 5376; R. S. 1894, 5219; R. S. 1881, 3952.)

[1883, p. 182. Approved and in force March 8, 1883.]

Sec. 94. BONDS OF ANOTHER COMPANY, GUARANTY OF. 1. The board of directors of any railway company organized under and pursuant to the laws of the State of Indiana, whose line of railway extends across the State in either direction, may, upon the petition of the holders of a majority of the stock of such railway company, direct the execution by such railway company of an indorsement guaranteeing the payment of the principal and interest of the bonds of any railway company organized under or pursuant to the laws of any adjoining State, the construction of whose line or lines of railway would be beneficial to the business or traffic of the railway so indorsing or guaranteeing such bonds. (R. S. 1897, 5377; R. S. 1894, 5216.)

Sec. 95. SUFFICIENCY OF PETITION. 2. The petition of the stockholders specified in the preceding section of this Act shall state the facts relied on to show the benefits accruing to the company indorsing or guaranteeing the bonds above mentioned. (R. S. 1897, 5378; R. S. 1894, 5217.)

Sec. 96. LIMITATION. 3. No railway company shall, under the provisions of this Act, indorse or guarantee the bonds of any such railway company or companies as is above mentioned to an amount exceeding one-half of the par value of the stock of the railway company so indorsing or guaranteeing as authorized under this Act. (R. S. 1897, 5379; R. S. 1894, 5218.)

[1855, p. 156. Approved and in force February 26, 1855.]

Sec. 97. MORTGAGEES, TAKING ROAD BY COMPROMISE, MAY INCORPORATE. 1. If any railway company has heretofore executed, or may hereafter execute, any mortgage upon the whole or any portion of its road, it shall be lawful for such company, with the consent of persons owning a majority of the capital stock of such company, to settle and compromise with such mortgagees, and release and convey to such mortgagees or creditors for whose benefit such mortgage is or may be held, such part of the road mortgaged, and upon such terms as may be agreed upon; and thereafter such vendees, by such name as they may assume, shall possess, own, and enjoy all the rights, privileges, and immunities of said company over the part of the road so conveyed; and no act or omission of the company making the conveyance shall work a forfeiture of their franchises over that part of the road so conveyed. Such vendees, by the name by them assumed, shall be a body corporate and politic, with the rights, privileges, franchises, and immunities, as aforesaid; and may issue stock not exceeding twenty thousand dollars per mile, and sell the same, and issue certificates therefor, which shall be assignable upon such terms as they may prescribe. If from any cause, there shall be any failure of the title to any right-of-way, or when the title thereto has not been acquired, upon which any railroad of this State is now constructed, it shall be lawful for the company owning the road, or for the party owning such lands upon which any part of the road is constructed, to apply to the proper Court for the writ of assessment of damages, and have the damages which the owner of said property has sustained or may sustain by reason of the taking, use, and occupancy thereof by the company for the construction and maintenance of said road; and upon assessment and payment by the company of the damages which may be assessed or awarded, the title to such property shall vest absolutely in the company for the purposes of the said railroad. The business of no road actually constructed shall be obstructed by reason of any such defect of title to any part of the property upon which it may be built, unless there shall be default in the payment of money awarded after the verdict shall have been rendered and judgment thereon; but every company, having actually constructed and having in operation said road, shall be entitled to maintain the same, and avail itself of the privilege of this section, whenever, from any cause, its right-of-way for the track occupied is not perfect and absolute: Provided, That no such compromise or conveyance shall be made until thirty days' notice has been given of the intention so to do, by publication in some

newspaper published in this State in the county in which the principal office of such company is kept. (R. S. 1897, 5380; R. S. 1894, 5220; R. S. 1881, 3953.)

ARTICLE 3—BY UNION.

SEC.	SEC.
98. Union roads.	114. Rights of union railway.
99. Incorporation—Powers.	115. Powers.
100. Directors—Powers.	116. Condemnation.
101. Right-of-way.	117. Borrowing money.
102. Joint liability.	118. Vacation of streets and alleys.
103. Other companies may enter.	119. Union associating with other companies.
104. Laws governing.	120. Officers.
105. Bridging navigable streams.	121. Managers.
106. Directors—Number.	122. Delegation of powers.
107. Notice.	123. Liabilities.
108. Stockholders' liability.	124. Companies under Act of 1852.
109. Union railway company.	125. Associate companies' rights.
110. Articles of association.	126. Joint liabilities.
111. Signing and attesting.	127. Use of roads and tracks.
112. Directors.	
113. Each company's interest—Certificates.	

[1 R. S. 1852, p. 421. Approved June 15, 1852. In force May 6, 1853.]

Sec. 98. UNION ROADS. 1. It shall be lawful for two or more railroad companies, running railroads to the same town or city, to locate, construct, keep up, repair, and use a common or union railroad of one or more tracks, connecting the railroads of such companies, for business purposes. (R. S. 1897, 5381; R. S. 1894, 5221; R. S. 1881, 3954.)

Sec. 99. INCORPORATION—POWERS. 2. Such companies as shall enter into such union arrangement, or may hereafter enter into the same, for the purpose of constructing such union road, shall, by resolution of their respective boards, adopt a name therefor; and shall cause such name, with the length and termini thereof, to be recorded in the Recorder's office of the county in which such union road may be located; and thereafter such companies may contract and be contracted with, sue and be sued for any matters relating to such union road by such name; and shall have full power, by such organization, to locate, construct, keep up, change, and repair such union road, and to take releases of the right-of-way, and to condemn so much land as may be necessary for the construction of such union road, and to use and regulate the same. (R. S. 1897, 5382; R. S. 1894, 5222; R. S. 1881, 3955.)

Sec. 100. DIRECTORS—POWERS. 3. The presidents of all the railroad companies entering into such union arrangements as are hereinbefore provided shall, ex-officio, form the union board for the transaction of all matters relating to such union road. They shall keep a record of their proceedings, which shall at all times be open to the examination of the stockholders and directors of such companies. They shall have power, in the name of such union road, to pass all by-laws not inconsistent with the charters or laws organizing their several roads, for the government of such board and the regulation of such union road and the business thereof. (R. S. 1897, 5383; R. S. 1894, 5223; R. S. 1881, 3956.)

Sec. 101. RIGHT-OF-WAY. 4. Whenever it shall become necessary to condemn the right-of-way for the use of such union road, the same may be done in the name of such union board, under the provisions of any of the charters of the companies, or laws under which they were organized, forming such union road: Provided, That in estimating damages for such right-of-way, the advantages to such person or persons owning the property sought to be condemned by the construction of such road or roads shall not be taken into consideration. (R. S. 1897, 5384; R. S. 1894, 5224; R. S. 1881, 3957.)

Sec. 102. JOINT LIABILITY. 5. Such union company, when so formed, shall be jointly liable to the public and all persons contracting with the union board, for all contracts and damages; and, as between themselves, shall be liable in the proportion of the interests of each company in the union road or property. (R. S. 1897, 5385; R. S. 1894, 5225; R. S. 1881, 3958.)

Sec. 103. OTHER COMPANIES MAY ENTER. 6. It may be lawful for any other railroad company not originally concerned in the formation or construction of such union road, to thereafter enter and take such an interest in the same, in such manner and upon such terms as may be agreed upon by the parties; and companies so entering into such union shall have all the rights and privileges conferred thereon by the provisions of this Act. (R. S. 1897, 5386; R. S. 1894, 5226; R. S. 1881, 3959.)

Sec. 104. LAWS GOVERNING. 7. All laws in force in this State, or which may be hereafter in force, for the protection of railroads and the property of railroad companies, and the charters of the several companies or laws organizing the same, entering into such

union arrangements, shall be applicable to such union roads as may be or shall have been constructed under this Act. (R. S. 1897, 5387; R. S. 1894, 5227; R. S. 1881, 3960.)

Sec. 105. BRIDGING NAVIGABLE STREAMS. 8. All railroad companies incorporated under any law of this State, which are authorized to construct their roads to points beyond any navigable stream, are hereby authorized to cross such streams upon bridges: Provided, Such bridges do not obstruct the free navigation thereof: And provided, further, That all railroad companies are hereby prohibited from charging or receiving tolls from persons who may cross on any bridge erected by any such company over any stream, over which any toll bridge has been erected or ferry established within eighty rods of the place at which such railroad bridge has been or may be hereafter erected. (R. S. 1897, 5388; R. S. 1894, 5228; R. S. 1881, 3961.)

Sec. 106. DIRECTORS—NUMBER. 9. It shall be lawful for any railroad company, at a regular or called meeting of the stockholders thereof, by a majority vote in interest, represented at such meeting either in person or by proxy, to determine the number of directors of such company, and reduce the number to not less than seven or increase the same to not more than thirteen, as such meeting shall deem proper. The proceedings of such meeting shall be certified by three or more stockholders present, to the secretary of such company, who shall record the same in the proper books of the company; and thereafter the number of directors shall be the number fixed upon by resolution of such meeting. (R. S. 1897, 5389; R. S. 1894, 5229; R. S. 1881, 3962.)

Sec. 107. NOTICE. 11. At least thirty days' notice shall be given in the manner required by the law under which such company is organized for the election of directors thereof, of a meeting of the stockholders to take into consideration the propriety of reducing or otherwise changing the number of directors in such company, and to make such reduction or change, if it shall be adjudged the interests of the company require it. (R. S. 1897, 5390; R. S. 1894, 5230; R. S. 1881, 3963.)

Sec. 108. STOCKHOLDERS' LIABILITY. 10. The stockholders of the several companies that shall avail themselves of the benefits of this Act shall be individually liable for all debts due for labor done

on such union tracks or depots, that shall not be paid for by their respective companies in their corporate capacity when due. (R. S. 1897, 5391; R. S. 1894, 5231; R. S. 1881, 3964.)

[1855, p. 30. Approved and in force March 2, 1885.]

Sec. 109. UNION RAILWAY COMPANY. 1. Where two or more railroad companies own or operate railroads extending into, through or near the same city or town, such companies, or any two or more of them, may form a union railway corporation, according to the provisions hereinafter contained. (R. S. 1897, 5392; R. S. 1894, 5232.)

Sec. 110. ARTICLES OF ASSOCIATION. 2. The railroad companies uniting in the formation of such corporation are designated as proprietary companies, and shall make a certificate of incorporation, in which they shall specify the name of the company to be incorporated thereunder, the amount of the capital stock of such company, the number and the par value of the shares into which it shall be divided, the aggregate amount of the par value of the shares of each proprietary company, the county or counties in which said union railway shall be situated, with the name of the town or city within or near which said union railway is to be constructed. (R. S. 1897, 5393; R. S. 1894, 5233.)

Sec. 111. SIGNING AND ATTESTING. 3. Such certificate of incorporation shall be signed by the president or vice-president, and attested by the secretary of each of said proprietary companies, and shall be sealed with its corporate seal, and shall be acknowledged by the respective companies by their said officers before some person authorized to take and certify the acknowledgments of conveyances of real estate and shall be filed and recorded in the Recorder's office of the county or counties in which said union railway company may be situated; and upon the filing of such certificate as aforesaid, the union company so formed shall be a corporation of this State, with all the powers incident thereto, and such other powers as are conferred by this Act. (R. S. 1897, 5394; R. S. 1894, 5234.)

Sec. 112. DIRECTORS. 4. The Board of Directors of any such union company shall consist of one representative from each of the proprietary companies, and the president of each such company shall ex officio be such representative: Provided, That each president may depute some other officer of his company to act in his stead as a member of the board. And such Board of Directors shall have power to

construct, maintain and operate such union railroad, to regulate the use of its depots, stations, structures, appliances, and facilities, and to regulate the time and manner in which engines, cars and other rolling-stock shall pass and be hauled over its tracks, and the tolls, charges or compensation to be paid therefor. (R. S. 1897, 5395; R. S. 1894, 5235.)

Sec. 113. EACH COMPANY'S INTEREST—CERTIFICATES.

5. The interest of each proprietary company in the union company, in its capital stock, and in its property and effects of every kind, shall be deemed an appurtenance to the railroad of such proprietary company, and shall not be transferable or alienable otherwise than with and as a part of the railroad of such proprietary company. The union company shall issue to each proprietary company a certificate or certificates setting forth the interest or stock of such proprietary company in such union company, but such certificate shall express upon its face that it is not transferable, except as appurtenant to the railroad of such proprietary company. (R. S. 1897, 5396; R. S. 1894, 5236.)

Sec. 114. RIGHTS OF UNION COMPANY. 6. Any such union railway company may, as owner or lessee thereof, operate any belt railroad extending around, or partly around, the town or city in or near which such union railway may be situated, the track of which belt road connects with the track of said union railway company, or with the track of any of its proprietary companies; to the end that such town or city may be relieved, as far as practicable, of the passage through it of through freight cars and through freight trains. (R. S. 1897, 5397; R. S. 1894, 5237.)

Sec. 115. POWERS. 7. Any such union railway company may erect, construct, rebuild, and replace, in connection with its tracks, union depots, car sheds, and such other structures and appliances as the company may deem necessary to facilitate the transaction of its business, and the business of its proprietary companies, and of other railroad companies whose tracks may connect therewith, and which may acquire from such union railway company the right to use said union tracks and their appliances. And such union company shall also have power to locate, construct, rebuild, keep up, change and repair such union railroad and its tracks, side-tracks, switches, depots, sheds and other structures and appliances, and to take conveyances and releases in fee simple, or otherwise, of rights of way and of such real estate as it may deem necessary for the purposes aforesaid, and

may condemn in fee simple, or otherwise, so much real estate and such rights of way as it may deem necessary for the purposes aforesaid, or any of them; also, to construct, own, maintain and operate union passenger stations, local freight stations, transfer and connecting tracks, between the property of such union company and property and tracks of other railroad companies. (R. S. 1897, 5398; R. S. 1894, 5238.)

Sec. 116. CONDEMNATIONS. 8. The condemnations authorized in the last section may be made and had according to the provisions of the charter of any or either of said proprietary companies, or under and according to the general railroad law of this State in force at the time providing for the condemnation of real estate for railroad purposes, or according to the provisions of article thirty of chapter two of the Revised Statutes of 1881, providing for the writ of assessment of damages. (R. S. 1897, 5399; R. S. 1894, 5239.)

Sec. 117. BORROWING MONEY. 9. Any such union railway company shall have power to borrow money for the purpose of raising means to carry out the powers conferred by this Act, and may issue coupon or other bonds payable to bearer, bearing interest not exceeding the highest contract rate of interest which may be allowable in this State at the time; such interest to be payable semi-annually, and such company may also mortgage its franchises, property and revenues of every kind then owned or subsequently to be acquired to secure the payment of such loan and interest, or of such bonds and interest. (R. S. 1897, 5400; R. S. 1894, 5240.)

Sec. 118. VACATION OF STREETS AND ALLEYS. 10. If any such union railway company, in carrying out the powers granted by this Act, shall deem it necessary that any part of any street, avenue or alley in any town or city which such union railway shall be situated should be vacated, it shall be lawful for the President and Trustees of such town, or for the Common Council of such city, or for the Board of Aldermen and Common Council of such city, as the case may be, to vacate any part of any street, avenue or alley of such town or city for the purposes contemplated by this Act: Provided, however, That, as a basis of such vacation, such union railway company shall present to and file with the proper municipal body or bodies of such town or city its petition, setting forth a description of the part of the street, avenue or alley proposed to be vacated, and the purpose for which the ground is proposed to be used, and there shall be appended to such petition, as a part of the basis of such vacation, the written consent to

the granting of the prayer of such petition of the owners in fee simple of more than one-half of the real estate fronting on both sides of said street or alley which, or part of which, is proposed to be vacated, estimated by the frontage in feet upon street or alley, such frontage to commence at a line drawn across such street or alley equidistant from the termini of that portion of the street or alley proposed to be vacated, and extending along said street or alley from said line fifteen hundred feet in each direction, unless such street, avenue or alley shall not be continuous in either direction from said line fifteen hundred feet, in which case the consent of owners, above provided for, shall only be required for the distance that it is continuous. Before granting the prayer of the petition, such municipal body, or bodies, shall ascertain and determine that the consent of the owners of the requisite number of front feet has been obtained as aforesaid, and such finding shall be made a matter of record, and shall be conclusive of the facts so found in the collateral proceedings: Provided, however, That before said petition is presented, twenty days' notice shall be given by such union railway company, by publication by three insertions in two newspapers of general circulation printed and published in the town or city in which such union railway may be situated, setting forth that on a day, to be therein named, or at the next meeting thereafter of such municipal body or bodies, a petition for the vacation of the portion of the street or alley in question, describing it, will be presented to such municipal body or bodies for action thereon. (R. S. 1897, 5401; R. S. 1894, 5241.)

Sec. 119. UNION ASSOCIATING WITH OTHER COMPANIES. 11. Any such union railway company may, by agreement in writing with any railroad company, not being one of said proprietary companies, and owning or operating a railroad which extends to, into, through or near the town or city in or near which such union railroad is or may be situated, admit said last mentioned railroad company to such use of the tracks, side-tracks, switches, depots, depot grounds, yards, sheds and other structures or railroad facilities and appliances (including the use of its belt railroad and belt railroad facilities, if any), during such time, on such terms and conditions, and for such compensation or rent as may be agreed upon. The right of any associate company to continue in the use and enjoyment of the property and facilities of the union company may be made to depend upon the faithful performance of such terms and conditions by such associate company as may be inserted in said agreement. The companies which

may be so admitted are herein designated as associate companies: Provided, That no such associate company shall be admitted to the use of the property and facilities of such union railway company, except upon the unanimous vote of the directors of such union company. (R. S. 1897, 5402; R. S. 1894, 5242.)

Sec. 120. OFFICERS. 12. The Board of Directors of any such union railway company shall annually elect a President, a Vice President, a Secretary and a Treasurer, who shall serve for one year, and until their successors are elected. Any general officer of either of the proprietary companies shall be eligible as President. The Vice President, Secretary and Treasurer need not necessarily be an officer of one of said proprietary companies: (R. S. 1897, 5403; R. S. 1894, 5243.)

Sec. 121. MANAGERS. 13. It shall be competent for the Board of Directors of such union railway company to organize a Board of Managers, to consist of a representative from each proprietary company, as well as a representative from each associate company previously admitted, such representatives to be selected by the respective companies which they are to represent, and the President of the union railway company shall be ex officio President of such Board. As associate companies are from time to time admitted to the use of the union railway property and facilities, as aforesaid, they shall each become entitled to have a representative on said Board of Managers; but after such Board of Managers shall have been organized, other associate companies shall only be admitted, as aforesaid, with the unanimous consent of all the members of such Board of Managers. (R. S. 1897, 5404; R. S. 1894, 5244.)

Sec. 122. DELEGATION OF POWERS. 14. It shall be competent for the Board of Directors of such union railway company, in the agreement by which any associate company or companies may be admitted as aforesaid, to delegate to such Board of Managers, such and so much of the authority, power and jurisdiction of such Board of Directors as may be agreed upon, subject, however, to the rights of the proprietary companies and of the union railway company as defined in the agreements under which associate companies may have been or may be admitted, subject to these rights the powers so delegated to said Board of Managers shall be exercised by said Board of Managers, and shall continue so long as the said associate companies,

or any or either of them, shall continue to be entitled to use the property and facilities of such union railway company. (R. S. 1897, 5405; R. S. 1894, 5245.)

Sec. 123. LIABILITIES. 15. Every such union railway company shall be primarily liable to the public and to third persons on its contracts and for its torts, but it shall be competent as between themselves for such proprietary companies, such associate companies and said union railway company, to agree among themselves that the ultimate liability for damages for any class of injuries to persons or property shall fall upon one or more of said companies, and such agreement as to such ultimate liability may be enforced as between the companies parties to such agreement: Provided, however, That nothing herein contained shall prevent any person suing for an injury to persons or property from joining as defendants any or all of said companies, if the facts would have justified such joinder if this section had never been passed. (R. S. 1897, 5406; R. S. 1894, 5246.)

Sec. 124. COMPANIES UNDER ACT OF 1852. 16. Any union railway company organized prior to the passage of this Act under the provisions of an Act of June 15, 1852, styled "general provisions in relation to railroad companies," may adopt the provisions of this Act by filing a written statement, setting forth its acceptance of the provisions of this Act, which written statement shall be signed by the president and attested by the secretary of each proprietary company, under its corporate seal, and shall be acknowledged by the parties thereto before some officer authorized to take acknowledgments of conveyances of real estate, which writing shall be filed and recorded in the office of the Recorder of the county or counties in which such union railway may be situated, and from the time of such filing such union railway company shall be deemed a corporation of the State of Indiana, and shall have all the powers and be subject to all the provisions of this Act. (R. S. 1897, 5407; R. S. 1894, 5247.)

Sec. 125. ASSOCIATE COMPANIES' RIGHTS. 17. Whenever, prior to the taking effect of this Act, any union railway company shall have been incorporated, and the proprietary companies of such union railway company shall have, by agreement in writing with any other railroad company, such as is designated in this Act as an associate company, admitted such associate company to the use of the property and facilities of such union company, then upon the filing of the certificate of acceptance contemplated by the last preceding section, such agreement between such proprietary companies and such

associate company shall have the same force and effect and be as valid and binding as if the same had been made after the taking effect of this Act, and the terms of such agreement including the provision for such a Board of Managers as is contemplated by this Act, the delegation of powers to such board, and the right of such associate company to representation on such board, shall be observed and enforced as may have been provided for in said agreement. (R. S. 1897, 5408; R. S. 1894, 5248.)

Sec. 126. JOINT LIABILITY. 18. The proprietary companies shall be jointly liable for all debts due for labor done for such union railway company on its tracks, depots, and other property that shall not be paid by such union railway company, but such liability shall not be enforceable against the said proprietary companies until the remedy against such union railway company shall have been exhausted, unless it is shown that said union company is insolvent. (R. S. 1897, 5409; R. S. 1894, 5249.)

Sec. 127. USE OF ROADS AND TRACKS. 19. Any such union railway company may make running arrangements with any of its proprietary companies, or with any of its associate companies, whereby such union railway company shall acquire the right to use the roads and tracks of such proprietary companies, or of said associate companies, so as to afford connecting facilities between the tracks of such union company and any belt railroad contemplated by this Act. (R. S. 1897, 5410; R. S. 1894, 5250.)

ARTICLE 4—BY CONSOLIDATION.

SEC.	SEC.
128. Common name.	137. Restrictions on forfeiture.
129. Record of resolution—Franchises.	138. Supplemental Act.
130. Union with road from State line.	139. Consolidated companies may consolidate.
131. Agreement, how made.	140. Franchises saved and action legalized.
132. Effect of consolidation.	141. Time for completion extended.
133. Franchises of connecting roads.	142. Corporate powers continued.
134. Power to consolidate generally.	143. Amendment or repeal.
135. Extension through other states.	
136. Contracts with foreign railroads.	

[1853, p. 104. Approved and in force January 25, 1853.]

Sec. 128. COMMON NAME. 1. Whenever two or more railroad companies have heretofore become associated, or shall hereafter become associated, in jointly making or running their roads under any contracts formed or to be formed by such companies, and desire to assume one common name, it shall and may be lawful for such com-

panies, by resolution of their respective Boards of Directors, entered upon their records, to adopt such name as shall be agreed upon. (R. S. 1897, 5411; R. S. 1894, 5251; R. S. 1881, 3965.)

Sec. 129. RECORD OF RESOLUTION—FRANCHISES. 2. It shall be the duty of said companies, upon the adoption of such common name, to cause a copy of the resolution of such boards to be recorded in the Recorders' offices of the different counties through which the road of said companies may run or be located; and thereafter, during the term of such association, such companies may have and use a common seal, contract and be contracted with, sue and be sued by such adopted name, in any and all matters relating to such union road; and shall have full power, by such association, to locate, construct, keep up, change repair, and operate such union road as, by their respective charters and amendments to such charters, they are allowed to do: Provided, however, That nothing herein contained shall be construed to abridge such companies of any of the powers and franchises belonging to them by their respective Acts of incorporation and amendments to such Acts: And Provided, further, That nothing herein contained shall be construed to prevent said companies from suing and being sued in their original corporate names, for all rights accrued and for all liabilities incurred before the adoption of such common name. (R. S. 1897, 5412; R. S. 1894, 5252; R. S. 1881, 3966.)

[1869 S., p. 102. Approved and in force May 4, 1869.]

Sec. 130. UNION WITH ROAD FROM STATE LINE. 1. Any railroad company organized and incorporated under the general laws of this State for the purpose of building a railroad from any point in the State to a point on the State line, shall be authorized to connect with any other railroad already made from such point on the State line at any convenient point of intersection within this State. (R. S. 1897, 5413; R. S. 1894, 5253; R. S. 1881, 3967.)

Sec. 131. AGREEMENT, HOW MADE. 2. Such connection may be made by agreement between the respective companies, under and in accordance with the provisions of, and with all the rights, powers and privileges granted by, an Act entitled "An Act to authorize two or more railroad companies to assume a common name, and to sue and be sued, contract and be contracted with, and prosecute their business under such common name," approved January 25th, 1853 (Secs. 3965 and 3966). (R. S. 1897, 5414; R. S. 1894, 5254; R. S. 1881, 3968.)

Sec. 132. EFFECT OF CONSOLIDATION. 3. Any such railroad company so connecting with the road of another company shall not be required to complete its own road to the State line so long as it shall continue to be thus associated with the company owning such other road already built from the State line, but its franchises and powers to build and complete its own road to the terminal point on the State line, whenever it shall be necessary so to do, shall remain unimpaired: Provided, That a consolidation, either temporary or permanent, effected under the first section of this Act (Sec. 130) with any railroad company whose bridges, or any of them, may be jointly used or occupied, or where a right, by law, exists to use and occupy by any other company, shall not in any manner affect the rights therein vested or secured by any Act heretofore passed upon that subject. (R. S. 1897, 5415; R. S. 1894, 5255; R. S. 1881, 3969.)

Sec. 133. FRANCHISES OF CONNECTING ROAD. 4. Any railroad company organized as in the first section of this Act mentioned (Sec. 130), and completing its connection with its terminal point on the State line by connection with the railroad of another company, as authorized by this Act, shall be taken and deemed to be a company owning and constructing a road to the State line, and shall possess all the rights, franchises, and privileges, and be subject to all the obligations and duties, of a railroad company owning a road to the State line, as prescribed by any general law of this State, not inconsistent with the provisions of this Act. (R. S. 1897, 5416; R. S. 1894, 5256; R. S. 1881, 3970.)

[1897, p. 283. Approved and in force March 8, 1897.]

Sec. 134. POWER TO CONSOLIDATE, GENERALLY. 1. Any steam or electric railroad heretofore organized under the laws of this State shall have the power to intersect, join and unite its railroad with any other steam or electric railroad, constructed or in progress of construction in this State or in any adjoining State, at such point on the State line, or any other point, as may be mutually agreed upon by such companies; and said companies are authorized to merge and consolidate the stock of the respective companies, making one stock company of the two steam or electric roads thus connected, upon such terms as may be by them mutually agreed upon in accordance with the laws of the adjoining State with whose road or roads connections are thus formed: Provided, Their charters authorize said roads to go to the State line or to other point of intersection. (R. S. 1897, 5417.)

[1853, p. 105. Approved and in force February 23, 1853.]

Sec. 135. EXTENSION THROUGH OTHER STATES. 2. Any railroad company heretofore organized or which may hereafter be organized under the general or special laws of this State for the purpose of constructing a railroad from any point within this State to the boundary line thereof is hereby empowered to extend said railroad into or through any other State or States, under such regulations as may be prescribed by the laws of such State or States into or through which said road may be so extended; and the rights and privileges of said company over said extension, in the construction and use of said railroad for the benefit of such company and in controlling and applying the assets of such company, shall be the same as if its railroad had been constructed wholly within this State. (R. S. 1897, 5418; R. S. 1894, 5259; R. S. 1881, 3972.)

Sec. 136. CONTRACTS WITH FOREIGN RAILROADS. 3. Any railroad company heretofore organized or which may hereafter be organized under the general or special laws of this State, and which may have constructed or commenced the construction of its road so as to meet and connect with any other railroad in an adjoining State at the boundary line of this State, shall have the power to make such contracts and agreements with any such road constructed in an adjoining State, for the transportation of freight and passengers, or for the use of its said road, as to the board of directors may seem proper. (R. S. 1897, 5419; R. S. 1894, 5260; R. S. 1881, 3973.)

Sec. 137. RESTRICTIONS ON FORFEITURE. 4. No railroad company incorporated or organized by special charter or under a general law shall incur a forfeiture of any of its corporate privileges by reason of its having heretofore failed to elect directors within the time prescribed by its charter or said law, or on account of a misnomer of said company in any publication of notice, or for a failure to complete the work within the designated period; but all said companies, so incorporated as aforesaid, shall have full power and lawful authority to construct and complete, within five years herefrom, their roads over the routes which they may have hitherto respectively surveyed and located; and whenever any railroad company shall have surveyed and located a route for a road, and commenced the construction of the same, it shall have full right and authority to complete said road, and to use and occupy the same: Provided, That nothing herein contained shall be construed to extend to any companies under special charters,

except such as are now organized and have actually constructed some portion of their railroads. (R. S. 1897, 5420; R. S. 1894, 5261; R. S. 1881, 3974.)

[1853, p. 107. Approved and in force March 4, 1853.]

Sec. 138. SUPPLEMENTAL ACT. 1. The provisions of the first section of the Act above recited (Sec. 134) were intended to apply to railroads hereafter organized as well as to those heretofore organized; and it shall and may be lawful for railroad companies hereafter organized under the laws of this or any adjoining State, as well as those heretofore organized, to consolidate and make their joint-stock with any other railroad company heretofore or hereafter organized as aforesaid, on the terms and conditions and subject to all the restrictions as stated in said Act. (R. S. 1897, 5421; R. S. 1894, 5262; R. S. 1881, 3975.)

[1893, p. 181. Approved and in force March 1, 1893.]

Sec. 139. CONSOLIDATED COMPANIES MAY CONSOLIDATE. 1. When any railroad company formed by the consolidation of a company or companies of this State with a company or companies of another State or States, shall make a further consolidation with a company or companies of another State or States owning a continuous and connected but not competing line, the constituent companies shall have power to fix by the agreement for such consolidation the terms and conditions upon which the same shall be made, which terms and conditions may include the payment or retirement of the preferred stock of either or both of the constituent companies, if they have such; and in case the new companies shall issue preferred stock, the par value of the shares thereof may be fixed by the agreement of consolidation, or by the resolution for the issue thereof without regard to the par value of shares of the common stock of such company. (R. S. 1897, 5422; R. S. 1894, 5258.)

[1871, p. 17. Approved and in force February 21, 1871.]

Sec. 140. FRANCHISES SAVED AND ACTION LEGALIZED. 1. Any railroad company heretofore organized under and pursuant to an Act entitled "An Act to provide for the incorporation of railroad companies," approved May 11, 1852, and also the Acts amendatory thereto, which, within three years after its incorporation, shall have merged and consolidated its stock with the stock of any other railroad

company organized and chartered in an adjoining State, making one joint-stock company under and pursuant to an Act entitled "An Act to authorize railroad companies to consolidate their stock with the stock of railroad companies in this or in an adjoining State, and to connect their roads with the roads of said companies, and to authorize railroad companies to construct their roads on the routes which they may have heretofore surveyed and located, and to use and occupy the same when completed," approved February 23, 1853 (Secs. 134 to 137), shall not be taken and held to have abandoned its road or forfeited its rights, privileges, and franchises, but the same shall be vested in such consolidated company; and the acts of its Board of Directors and of the Board of Directors of such consolidated company are hereby legalized. (R. S. 1897, 5423; R. S. 1894, 5263; R. S. 1881, 3976.)

Sec. 141. TIME FOR COMPLETION EXTENDED. 2. Any such consolidated company which, within two years after its consolidation in manner as set forth in the preceding section, shall have, in good faith, begun the construction of its road in this State, and shall have actually expended thereon at least fifty thousand dollars in the construction thereof in this State, exclusive of officers' salaries and expenses, shall have five years from and after the taking effect of this Act to complete the same. (R. S. 1897, 5424; R. S. 1894, 5264; R. S. 1881, 3977.)

Sec. 142. CORPORATE POWERS CONTINUED. 3. The corporate powers and franchises of all companies falling within the provisions of this Act, their rights, credits, privileges, and immunities, are contained in full force for and during the said additional term of five years; and if, at the expiration of said time, such road shall not be completed, the corporate powers and franchises of such company shall then cease and its Act of incorporation become void: Always Provided, That the benefits of this Act shall not extend to any corporation whose charter shall have been declared forfeited by a competent tribunal or against which a final judgment of ouster shall have been entered: And Provided, further, That the provisions of this Act shall not affect the rights or interests of railroad companies over such railroads as have been opened and put in operation by said companies. (R. S. 1897, 5425; R. S. 1894, 5265; R. S. 1881, 3978.)

Sec. 143. AMENDMENT OR REPEAL. 4. This Act may be amended or repealed at the discretion of the Legislature. (R. S. 1897, 5426; R. S. 1894, 5266; R. S. 1881, 3979.)

ARTICLE 5—AFTER ABANDONMENT.

SEC.	SEC.
144. What is abandonment.	147. Pay of appraisers.
145. Other company may complete—Appraisalment.	148. When road deemed abandoned.
146. Distribution of money.	149. Annual statement.
	150. Completion of roads sold.

[1877, p. 109. Approved and in force March 7, 1877.]

Sec. 144. WHAT IS ABANDONMENT. 1. Any railroad company, organized under a special charter, or under the general law of this State for the construction of railroads, whose line is wholly within this State or partly within this State and partly in another State, which shall fail to keep up the directory of its road and expend at least the sum of fifty thousand dollars upon the line of such road in this State within any period of two years from the taking effect of this Act; or where any railroad company, so organized as aforesaid, shall have heretofore located the line of its road in this State, and has afterward adopted another and different line and route thereof in this State,—then, in either of the above cases, such railroad company shall be taken and held to have abandoned such road, or so much of the line thereof in this State as has been abandoned by so selecting and adopting another and different line; and such company is hereby declared to have forfeited all its rights, privileges, and franchises in such road or part thereof. (R. S. 1897, 5427; R. S. 1894, 5267; R. S. 1881, 3980.)

Sec. 145. OTHER COMPANY MAY COMPLETE—APPRAISEMENT. 2. Any company that now is or that may be organized under the general laws of this State providing for the incorporation of railroad companies may complete any such abandoned road or part thereof, and shall, for such purpose, be invested with all the rights, privileges, interests, rights-of-way, franchises, properties, and immunities of such derelict railroad company, and shall proceed to construct the same, as is hereafter provided: Provided, however, That before any such new company shall succeed to said rights, privileges, interests, rights-of-way, franchises, properties and immunities, and before it shall proceed to complete such road or part of such road, the value of the same shall be ascertained by three disinterested freeholders, resident in any county through which the line of such road may run, one of whom shall be selected by said new company, and one by the old company; or the assignee or purchaser of the franchises thereof, and

the other by the Auditor of such county, and these three shall constitute a board of appraisers; and in the event that the said old company, or the assignee or purchaser of the franchises thereof, shall fail or refuse, upon request, to name such appraiser, then he shall be named by the said Auditor. Such Board of Appraisers shall take an oath to faithfully discharge their duties, and make a true and impartial appraisalment of such rights, privileges, interests, rights-of-way, franchises, properties, and immunities. Such board shall report their appraisalment to said Auditor, and, upon the payment of the same by such new company to the Treasurer of such county, it shall succeed to and be interested as aforesaid: Provided, That nothing in this Act shall authorize or permit any railroad company, which has constructed and is operating its road to change its line of road from that now used and occupied so as to avoid any point named in its charter or articles of association. (R. S. 1897, 5428; R. S. 1894, 5268; R. S. 1881, 3981.)

[1867, p. 160. Approved and in force March 11, 1867.]

Sec. 146. DISTRIBUTION OF MONEY. 3. The money so paid, as is provided in the preceding section, shall be held by such Treasurer in trust, for the payment, firstly, of the debts of such old company; and, secondly, the balance, if any, shall be equitably distributed among the stockholders thereof. (R. S. 1897, 5429; R. S. 1894, 5269; R. S. 1881, 3982.)

Sec. 147. PAY OF APPRAISERS. 4. The said appraisers shall receive for their services five dollars per day for the time by them employed, to be paid by said Treasurer out of the amount of said assessment. (R. S. 1897, 5430; R. S. 1894, 5270; R. S. 1881, 3983.)

Sec. 148. WHEN ROAD DEEMED ABANDONED. 5. Any such railroad company whose road is incomplete, which shall fail to complete the same, or which shall fail to expend at least twenty-five thousand dollars toward the completion thereof, in each year, shall be taken and held to come within the purview of this Act. (R. S. 1897, 5431; R. S. 1894, 5271; R. S. 1881, 3984.)

Sec. 149. ANNUAL STATEMENT. 6. Each railroad company in this State, or whose road runs into this State, shall, on the fifteenth day of January of each year, file with the Auditor of State a statement, in writing, verified by the affidavit of the Treasurer of such company, showing the gross receipts of such company; the amount paid to

each officer; the gross amount paid to other employees; the amount paid for rolling-stock; the amount paid for the actual construction of such road (itemizing the amount paid for earth-work, bridges, iron, ties, culverts, and all other items of such construction); and also the amount of the capital stock of such company, the assets thereof, and the rate of dividends to the stockholders, and also, any and all other expenses of such company. (R. S. 1897, 5432; R. S. 1894, 5272; R. S. 1881, 3985.)

Sec. 150. COMPLETION OF ROADS SOLD. 7. Whenever any railroad company coming within the provisions of this Act shall sell or transfer its property, rights, or franchises to any other railroad company, it shall be the duty of such last-named railroad company to complete the road so transferred to it, and put the same in complete running order within three years after the time of such transfer; and upon failure so to do, it shall be taken and held to have abandoned and forfeited the same; any company organized, as provided in this Act, shall succeed to and be invested with the same, as is herein provided: Provided, however, That nothing in this Act contained shall be regarded as a recognition of the right of two or more railroad companies to consolidate by voluntary agreement. (R. S. 1897, 5433; R. S. 1894, 5273; R. S. 1881, 3986.)

ARTICLE 6 - LATERAL RAILROADS.

SEC.	SEC.
151. Organization—Proceedings.	155. Connections.
152. Certificate of incorporation.	156. Unknown and non-resident owners of land.
153. Right-of-way—Width—Restrictions.	157. Pay of viewers.
154. Appropriation of material.	

[1869 S., p. 97. Approved and in force April 29, 1869.]

Sec. 151. ORGANIZATION—PROCEEDINGS. 1. It shall be lawful for any owner or owners, or their lessees, of lands, mills, blast-furnaces, quarries, iron ore, coal mines, or other minerals or other real estate, or for any company of persons who shall desire to construct a lateral railroad, not exceeding ten miles in length, to locate and construct the same to any other railroad, canal, or slack-water navigation, on, over, through, or under any intervening lands, and, by their engineers, agents, artists, and assistants, to enter upon any such intervening lands, doing no unnecessary damage, and survey, mark, and lay out a route for said proposed lateral railroad, and thereupon may present

a petition to the Circuit Court of the county in which intervening lands are situate, setting forth the beginning, course, distance, and termination of such proposed lateral railroad, together with a map or profile of such route, indicating the excavations and embankments on said route, and designating, particularly, the name or names of the owner or owners, occupant or occupants, agent or agents of such intervening lands, with a particular description of the same; which said petition shall be filed in said Court. And thereupon said Court shall appoint three judicious and disinterested freeholders of such county as viewers, who, after five days' notice, to be given by such applicant to each of said owners, occupants, or agents of such intervening lands, of the time and place, and after being duly sworn to discharge their duties fairly and honorably as such viewers, shall view the said proposed route as marked and laid out for such railroad. And they, or a majority of them, shall assess the damages, if any, which may be sustained by any such owner or owners, separately, of such intervening lands, by reason of the location and use of such proposed lateral railroad, and report the same in writing to the Clerk of said Court immediately after said assessments are made; which said report shall be filed in the office of the clerk thereof, and if not excepted to within twenty days after the filing of the same, by indorsing thereon "not accepted," and signed by the party so excepting, the same shall be confirmed by said Court. But if either party be dissatisfied with such report, and signify the same as above provided, the same shall stand for trial at the next ensuing term of said Court, provided not less than ten days shall have intervened between the exception so taken and the term of said Court; and upon the trial, the general denial to said petition and report shall be deemed and taken as filed, and all matters of defense and reply may be given in evidence under such general denial. The party excepting shall have the affirmative of the issues, provided that said viewers or jury trying said cause shall, in assessing such damages, take into consideration the advantages which may be derived by the owner or owners of such lands passed on, over, through, or under by such proposed lateral road, by its location and construction thereon; and provided, further, that upon the filing of said report by said viewers in such Court, the damages assessed by them shall be paid to said Clerk, or be tendered to the party in whose favor the damages are awarded or assessed. On making payment or tender thereof as aforesaid, it shall be lawful for such person or persons or company of persons, and their lessees, to hold and take possession of the interests in such intervening lands or materials appropriated, and the privilege of using any materials on such roadway

within fifty feet on each side of the center of said roadway for the use aforesaid. The costs of the assessments by the viewers shall be paid by the said petitioners, and the costs in case of trial shall be paid as in other cases now provided for by law. (R. S. 1897, 5434; R. S. 1894, 5274; R. S. 1881, 3987.)

Sec. 152. CERTIFICATE OF INCORPORATION. 6. Such person or persons or company of persons, who shall determine to construct such lateral railroad shall make out, under oath, a certificate of the name or names of such person or persons or company of persons, setting out the beginning, termination, and length of said proposed lateral railroad, and file the same in the Recorder's office in the county or counties in which said road is located; and shall have the power and capacity to contract and be contracted with, to sue and to be sued, and generally to exercise such powers and perform such acts and duties as may be necessary and proper to carry out the purposes contemplated by this Act. In cases of sale or assignment, the purchasers, assignees, or lessees thereof shall file the same in such Recorder's office; and such certificate of organization, sale, or assignment shall be, by the Recorder, recorded in the proper record of his office; and for all services aforesaid such Recorder shall be entitled to receive fifteen cents for each one hundred words. (R. S. 1897, 5435; R. S. 1894, 5275; R. S. 1881, 3988.)

Sec. 153. RIGHT-OF-WAY—WIDTH—RESTRICTIONS. 2. Such proposed lateral railroad shall not exceed one hundred feet in width, except where excavations, embankments, or other necessity require it; nor shall the same pass through any burial-ground, place of public worship, or any public building or dwelling-house, without the consent of the owner. (R. S. 1897, 5436; R. S. 1894, 5276; R. S. 1881, 3989.)

Sec. 154. APPROPRIATION OF MATERIAL. 3. It shall be lawful for any such person or persons or company of persons, their agents or employes, desiring to construct such lateral railroad, to enter upon any land near or adjoining thereto, to search for stone, wood, gravel, or other materials to be used in the construction thereof; but no stone, gravel, wood, or other materials shall be taken from any land, for said purpose, until the rate of compensation therefor shall be ascertained and tendered to the owner thereof. But if the parties can not agree thereon, each party shall choose a disinterested and reputable freeholder of the neighborhood (who, if they can not agree, shall

choose an umpire of like qualifications) who shall, under oath or affirmation, fairly and impartially estimate the same; and such award shall be final and conclusive—the amount of which said award shall be paid or tendered to the person or persons entitled thereto, if within the State or known. (R. S. 1897, 5437; R. S. 1894, 5277; R. S. 1881, 3990.)

Sec. 155. CONNECTIONS. 4. It shall be lawful for any person or persons or company of persons to connect such lateral railroad with any railroad or railroads incorporated or to be incorporated in this State, and also with any highway or public improvement: Provided, That if the parties interested can not agree upon the mode, manner, or point of connection with such railroad or railroads, the same shall be determined in the same manner as the compensation for materials prescribed in the preceding section. (R. S. 1897, 5438; R. S. 1894, 5278; R. S. 1881, 3991.)

Sec. 156. UNKNOWN AND NON-RESIDENT OWNERS OF LANDS. 5. If any of the owners of any intervening lands aforesaid shall be unknown, non-resident, or incompetent to act, then the occupant of such lands or the agent of such owner shall be deemed and taken to be the owner of such lands; and in case where such owner or agent is unknown and such lands are unoccupied, then in all such cases, the Sheriff of such county shall be deemed the owner of such lands for all the purposes contemplated in this act, and shall be paid two dollars per day for every day's service in and about such matter. (R. S. 1897, 5439; R. S. 1894, 5279; R. S. 1881, 3992.)

Sec. 157. PAY OF VIEWERS. 7. The viewers mentioned in this Act shall each receive two dollars per day for their services, to be paid by said petitioners. (R. S. 1897, 5440; R. S. 1894, 5280; R. S. 1881, 3993.)

CHAPTER 2.

RAILROADS—AFTER ORGANIZATION.

ART.

1. *Connecting lines.*
2. *Forfeitures.*
3. *Franchises.*
4. *Liabilities and obligations.*

ART.

5. *Public aid.*
6. *Right-of-way.*
7. *Miscellaneous.*
8. *Crimes relating to railroads.*

ARTICLE 1 — CONNECTING LINES.

SEC.

158. *Foreign roads.*
159. *Bridge on State line—Joint use.*
160. *Right of-way.*
161. *Appropriation of lands.*

SEC.

162. *Fee-simple in way.*
163. *Connecting contracts.*
164. *Contracts ratified.*
165. *Liability to third persons.*

[1863, p. 33. Approved and in force March 7, 1863.]

Sec. 158. FOREIGN ROADS. 1. Any railroad company incorporated by special charter under the laws of the States of Ohio or Illinois, or under any general law of either State, with its terminus at the boundary of either State, may continue its road into this State, so far as may be necessary to form a connection with any road already built in this State; and may, for such purpose, purchase and hold such real estate as is necessary for depot buildings, machine shops, stock-yards, tracks, crossings, and sidings. (R. S. 1897, 5441; R. S. 1894, 5281; R. S. 1881, 3994.)

Sec. 159. BRIDGE ON STATE LINE—JOINT USE. 2. Whenever railroads have been chartered by the joint action of the Legislatures of Illinois and Indiana or Ohio and Indiana, or whenever separate charters have been granted by each State, and a railroad has been built under separate company organizations and operated through one or more of said States, and when the line dividing the State of Indiana from either of said States is a water-course which has been bridged at the joint expense of two such separate railroad company organizations, the company desiring to extend its line into this State shall have the right to maintain and use such bridge, so far as may be

convenient and necessary and so as not to interfere with the necessary joint use thereof by the companies owning the same, in the transaction of their ordinary joint business, and may extend its track upon and across such joint bridge, from the Indiana shore of said stream, so far into the State of Indiana as may be necessary to form a perfect connection with other roads by means of tracks, side-tracks, crossings, and sidings; and, so far as may be necessary for the accommodation of the business of such corporation, it may procure grounds and erect depot buildings, machine shops, and such other buildings within this State, provided that the distance from the State line to such connection or crossing, as proposed, shall not exceed three miles. (R. S. 1897, 5442; R. S. 1894, 5282; R. S. 1881, 3995.)

Sec. 160. RIGHT-OF-WAY. 3. The president and directors of such railroad company so extending its line of road into the State of Indiana, or any person authorized by them thereto, may obtain from any person or persons through whose lands the proposed extension of their said road passes a relinquishment of so much land as may be necessary for the purpose of said extension or as may be convenient and proper therefor. (R. S. 1897, 5443; R. S. 1894, 5283; R. S. 1881, 3996.)

Sec. 161. APPROPRIATION OF LAND. 4. In all cases when any person or persons through whose lands the proposed extension of any such road may run shall refuse to relinquish the same, or when a contract between the parties can not be made for the right-of-way and necessary ground for switches, side-tracks, and depot grounds, it shall be lawful for the corporation to give notice to some Justice of the Peace in the township where the difficulty may occur, that such facts do exist; and such Justice of the Peace shall, thereupon, summon the owner or owners of such lands to appear before him on a particular day, within ten days thereafter, and shall appoint six disinterested freeholders of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, view the land and report thereon how much damage such person or persons may be entitled to, and file such report with such Justice; whereupon such Justice shall enter judgment thereon, unless for good cause then shown; and in case either party show sufficient cause why judgment should not be entered, the Justice may grant a review, with or without costs: Provided, That either party may appeal to the Circuit Court of the proper county as in other cases, and such Court shall appoint viewers as above directed, who may report, at that or any subsequent

term, in the discretion of the Court; and the judgment of the Circuit Court shall be final. And in all cases where the owner or owners of such land shall be minors or insane persons, or reside out of the county where such lands lie, said Justice shall cause three notices of the appointment of viewers to be posted up in three of the most public places in the township where such lands lie; and if no person shall attend on the day of such notice, the said Justice shall adjourn the same to that day two weeks, at which time he shall proceed as if such person or persons had been personally notified to attend; and on such judgment being rendered, and said corporation complying therewith, by the payment of the damages assessed and costs, the said corporation shall be seized in fee-simple of the lands for the sole use of the corporation. (R. S. 1897, 5444; R. S. 1894, 5284; R. S. 1881, 3997.)

Sec. 162. FEE-SIMPLE IN WAY. 5. When such corporation shall have procured the right-of-way, it shall be seized in fee-simple of the lands, and shall have the sole use and occupation of the same for the purposes aforesaid; and no person, or body politic or corporate, shall, in any way, interfere therewith, molest, disturb, or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the property of said corporation. (R. S. 1897, 5445; R. S. 1894, 5285; R. S. 1881, 3998.)

[1873, p. 186. Approved and in force March 10, 1873.]

Sec. 163. CONNECTING CONTRACTS. 1. All railroad companies now organized or that may be hereafter organized under the laws of this State, having connecting roads, may enter into contracts, by their respective boards of directors, by which the locomotives and trains of one railroad company, for the transportation of freight and passengers, may be run and operated over and upon the track and road of another railroad company, upon such terms as the said companies may agree upon. (R. S. 1897, 5446; R. S. 1894, 5286; R. S. 1881, 3999.)

Sec. 164. CONTRACTS RATIFIED. 2. All contracts heretofore made in good faith between railroad companies organized under the laws of this State, acting by their respective boards of directors, by which the locomotives and trains of one railroad company, for the transportation of freight and passengers, are to be run and operated over the track and road of another railroad company, are hereby ratified and made legal. (R. S. 1897, 5447; R. S. 1894, 5287; R. S. 1881, 4000.)

Sec. 165. LIABILITY TO THIRD PERSONS. 3. Every railroad company that shall run and operate its locomotives and trains upon the track and road of another railroad company shall be liable to third persons for all damages occasioned by such locomotives and trains, in the same manner and to the same extent as though the track and road upon which such locomotives and trains were run and operated belonged to the company owning and operating the same. (R. S. 1897, 5448; R. S. 1894, 5288; R. S. 1881, 4001.)

ARTICLE 2—FORFEITURES.

SEC.

166. Of branch.

167. Time for completion.

168. Time for completion.

169. Failure.

SEC.

170. Amendment or repeal.

171. Further time for completion.

172. Failure to complete.

[1865 S., p. 115. Approved and in force April 13, 1866.]

Sec. 166. OF BRANCH. 1. Whenever any railroad company, incorporated, organized and existing under any Act or charter granted by the General Assembly of the State of Indiana prior to the taking effect of the present Constitution, which shall have been authorized by such charter, or any amendments thereto, to construct any branch road to their main route, and shall have procured the right-of-way for such branch road or any part thereof, and proceeded to cut out and grade the same, or any part thereof, but shall have ceased work upon the same for a period of ten consecutive years prior to the first day of the present session of the General Assembly, without having completed any part thereof, such right-of-way to such branch route and to every part thereof shall be, and the same is hereby declared to be forever forfeited and lost by said company, as well as all work done and labor and material furnished by said company toward the grading of the same; and the said right-of-way, and each and every part thereof, shall re-invest in the owners of the soil over which the said branch road may have been laid out, in the same manner and relation as before it was granted to said company. (R. S. 1897, 5449; R. S. 1894, 5289; R. S. 1881, 4002.)

[1861 S., p. 74. Approved March 31, 1861. In force September 7, 1861.]

Sec. 167. TIME FOR COMPLETION. 1. Any railroad company heretofore organized under and pursuant to an Act entitled "An Act to provide for the incorporation of railroad companies," approved May 11, 1852, which, within three years after its incorporation, shall

have begun the construction in good faith upon the road-bed of its road, and shall have actually expended thereon four hundred thousand dollars in the construction thereof, exclusive of expenses for pay of officers, right-of-way, engineering, and other incidental expenses, shall have ten years from and after the thirtieth day of December, 1861, to complete the same; and if said road shall not then be completed, the corporate powers of such company shall cease and its Act of incorporation shall become void: Always Provided, That this Act shall not extend to any corporation whose charter shall have been declared forfeited, or against which a final judgment of ouster shall have been entered. (R. S. 1897, 5450; R. S. 1894, 5290; R. S. 1881, 4003.)

[1863, p. 15. Approved and in force February 18, 1863.]

Sec. 168. TIME FOR COMPLETION. 1. Any railroad company legally organized under and pursuant to an Act entitled "An Act to provide for the incorporation of railroad companies," approved May 11, 1852, which within three years after its incorporation, shall have in good faith begun the construction of its road, and shall have actually expended thereon a sum equal to two thousand dollars per mile of the entire length of the road in the construction thereof, exclusive of officers' salaries and expenses, shall have ten years after the thirtieth day of December, 1862, to complete the same. (R. S. 1897, 5451; R. S. 1894, 5291; R. S. 1881, 4004.)

Sec. 169. FAILURE. 2. The corporate powers of all companies falling within the provisions of this Act are continued in full force for and during the said additional term of ten years; and if, at the expiration of said term, such road shall not be completed, the corporate powers of such company shall then cease and its Act of incorporation become void: Always Provided, That the benefits of this Act shall not extend to any corporation whose charter shall have been declared forfeited, or against which a final judgment of ouster shall have been entered; nor shall this Act save any corporation or company from the effect of anything done or omitted, except a failure to complete its road, as provided therein. (R. S. 1897, 5452; R. S. 1894, 5292; R. S. 1881, 4005.)

Sec. 170. AMENDMENT OR REPEAL. 3. This Act may be amended or repealed at the discretion of the Legislature. (R. S. 1897, 5453; R. S. 1894, 5293; R. S. 1881, 4006.)

[1871, p. 18. Approved and in force February 23, 1871.]

Sec. 171. FURTHER TIME FOR COMPLETION. 1. Any railroad company organized under and pursuant to an Act entitled "An Act to provide for the incorporation of railroad companies," approved May 11, 1852, whose time for completing their road has been heretofore extended for a period of ten years, and which has expended at least two thousand dollars per mile of the entire length of the road in actual construction, and which, at the expiration of the time limited by the Act extending the time for the completion of certain railroads, approved May 31, 1861, shall not have fully completed the same, shall have two years from the thirtieth day of December, 1871, to complete the same. (R. S. 1897, 5454; R. S. 1894, 5294; R. S. 1881, 4007.)

Sec. 172. FAILURE TO COMPLETE. 2. The corporate powers, rights, and franchises of all companies falling within the provisions of this Act are continued in full force for and during the said additional term of two years; and if at the expiration of said term such road shall not be completed, the corporate powers of such company shall cease: Provided always, That the benefits of this Act shall not extend to any corporation whose charter shall have been declared forfeited, or against which a final judgment of ouster shall have been entered. Nor shall this Act affect the rights or interests of any railroad company over any railroad that has been constructed and put in operation by a company, the road-bed of which has been purchased of another company. (R. S. 1897, 5455; R. S. 1894, 5295; R. S. 1881, 4008.)

ARTICLE 3—FRANCHISES.

SEC.

- 173. Change of name.
- 174. Record and notice.
- 175. Franchises—Suits.
- 176. Classification of directors.
- 177. Branches—Bridge stock.
- 178. Branches.
- 179. Power to take land.
- 180. Extension.

SEC.

- 181. Right-of-way.
- 182. Telegraph lines.
- 183. Telegraph lines.
- 184. Signals at crossings.
- 185. Penalty for failure.
- 186. Suits for.
- 187. Damages.
- 188. Penalty to school fund.

[1853, p. 103. Approved and in force February 22, 1853.]

Sec. 173. CHANGE OF NAME. 1. Any railroad company, desiring so to do, may change its name by resolution of its board of directors, duly entered upon its records, and, in so doing, may adopt such name as may be agreed upon by said board. (R. S. 1897, 5456; R. S. 1894, 5296; R. S. 1881, 4009.)

Sec. 174. RECORD AND NOTICE. 2. It shall be the duty of said board to cause a copy of the resolutions changing the name of its road, as above provided, to be recorded in the offices of the Recorders of the several counties through which the road may run, and also to give notice thereof by publication in some newspaper of general circulation in this State. (R. S. 1897, 5457; R. S. 1894, 5297; R. S. 1881, 4010.)

Sec. 175. FRANCHISES—SUITS. 3. The change of name as herein provided shall not be construed to deprive any company of any of the powers and franchises granted to it by the original Act of incorporation or amendments thereto; nor shall anything herein contained be so construed as to prevent any company, changing its name, from suing or being sued in its original name for all rights and liabilities which may have accrued previous to changing its name. (R. S. 1897, 5458; R. S. 1894, 5298; R. S. 1881, 4011.)

[1869 S., p. 103. Approved and in force May 15, 1869.]

Sec. 176. CLASSIFICATION OF DIRECTORS. 1. It shall be lawful for the board of directors of any railway company whose road passes through this State into adjoining States, by lot or otherwise, to so classify the members thereof, that one-fourth (as near as may be) shall terminate their official term as directors at the first annual election thereafter, and one-fourth at each subsequent election; and, after being thus classified, the stock and bondholders shall elect only the number of the board of directors necessary to fill the vacancies created by the expiration of the period of services fixed as aforesaid. (R. S. 1897, 5459; R. S. 1894, 5299; R. S. 1881, 4012.)

[1863, p. 6. Approved and in force February 21, 1863.]

Sec. 177. BRANCHES—BRIDGE STOCK. 1. It shall be lawful for any railroad company in this State organized under the general or special laws of this State, to make branches or extensions of its railroad to the boundary line of any county in which such road may have a terminus, such boundary line being also a boundary line of the State; and such railroad company shall have all the powers, rights, and privileges in relation to such branches or extensions as it has or may have in relation to its original road under the law by which it was organized and in conformity to the law of its organization, with power to said company to subscribe and take stock in any railroad-birdge company on the route of said road or at the terminus of said railroad, for the

use and benefit of said road: Provided, That any such bridge at the terminus of said road shall be so constructed as to admit the passage of vehicles, foot-passengers, and for general purposes. (R. S. 1897, 5460; R. S. 1894, 5300; R. S. 1881, 4013.)

[1889, p. 100. Approved and in force March 5, 1889.]

Sec. 178. BRANCHES. 1. Any railroad company organized under the laws of this State is hereby authorized to build and operate, in addition to the main line authorized by its charter or articles of association, branch railroads from any point or points on its main line, to or through any adjacent mineral lands containing coal, iron, or building stone, not, however, exceeding in distance fifty miles from the nearest point on said main line: Provided, however, That no railroad company shall build any such branch railroad if the owners of one-third its stock object thereto. (R. S. 1897, 5461; R. S. 1894, 5301.)

[1865 S., p. 117. Approved and in force December 19, 1865.]

Sec. 179. POWER TO TAKE LAND. 2. The powers of the charter of any railroad company constructing such branch, in relation to the entering upon and taking possession of and acquiring title to any ground and materials necessary in the construction and maintenance of such road, shall be, and the same are hereby, extended to the construction and maintenance of any such branch road. (R. S. 1897, 5462; R. S. 1894, 5302; R. S. 1881, 4015.)

Sec. 180. EXTENSION. 1. Any railroad company organized under any general law of this State is hereby empowered to extend its road, from time to time, beyond either terminus fixed in its articles of association, and to construct or cause to be constructed, and to own and operate such extension or extensions, in the same manner, and to the same extent, as if such extension or extensions had been included between the termini named in its original articles of association: Provided, however, That before any such extension or extensions are commenced, the same shall be authorized by resolution adopted by the holders of a majority, in value, of the capital-stock of the company proposing to extend its road; and such resolution shall specify the point from and the point to which such extension is to be made, and the township or townships and county or counties into or through which the same is to be constructed. A copy of such resolution, signed by the president and attested by the secretary of said company, under

its corporate seal, shall be filed in the office of the Secretary of State. (R. S. 1897, 5463; R. S. 1894, 5303; R. S. 1881, 4016.)

Sec. 181. RIGHT-OF-WAY. 2. Any railroad company extending its line under the provisions of this Act may acquire right-of-way and other property by condemnation or otherwise, in the same manner and with the same effect as if such extension had been included within the original articles of association of such company. (R. S. 1897, 5464; R. S. 1894, 5304; R. S. 1881, 4017.)

[1881 S., p. 590. Approved and in force April 7, 1881.]

Sec. 182. TELEGRAPH LINES. 1. Any railroad company, now or hereafter lawfully organized, and owning or operating, under lease or otherwise, railroads in this State, is hereby authorized and empowered to construct, maintain, own, and operate lines of telegraph upon and along the route and right-of-way of the railroad or railroads owned or operated by it, and such additional distances beyond the termini of the main line or branches of such road or roads, or from such points on the main line or branches thereof as may be necessary to reach business centers, for its own and also for public or commercial uses, and to connect and operate the same, for like uses, in connection with the telegraph lines of other railroad or telegraph companies or individuals in this or any other State, so as to form a continuous line, upon such terms and conditions for the interchange and forwarding of business as may be mutually agreeable to the parties, and to charge, collect, and receive reasonable and customary rates for transmission of telegrams thereupon. (R. S. 1897, 5465; R. S. 1894, 5305; R. S. 1881, 4018.)

Sec. 183. TELEGRAPH LINES. 2. It shall be lawful for any such company as is named in the preceding section to acquire, upon terms mutually agreeable to the parties, the right to construct lines of telegraph, or to acquire telegraph lines already constructed, upon and along the line of any other railroad or railroads in this or any other State, and to maintain and operate the same separately or in connection with its own line for the transmission of its own or public or commercial telegrams, and charge and collect customary rates therefor: Provided, That all railroad companies owning or operating any telegraph line or lines under the provisions of this Act shall be subject to all the regulations, penalties and liabilities of telegraph companies

as are now or may hereafter be provided by law, when receiving, transmitting, and delivering messages for the public or any individual or company. (R. S. 1897, 5466; R. S. 1894, 5306; R. S. 1881, 4019.)

[1881 S., p. 590. Approved April 8, 1881. In force September 19, 1881.]

Sec. 184. SIGNALS AT CROSSINGS. 1. It shall be the duty of all railroad companies operating in this State to have attached to each and every locomotive engine a whistle and a bell, such as are now in use or may be hereafter used by all well-managed railroad companies; and the engineer or other person in charge of or operating such engine upon the line or any such railroad shall, when such engine approaches the crossing of any turnpike or other public highway in this State, and when such engine is not less than eighty nor more than one hundred rods from such crossing, sound the whistle on such engine distinctly three times and ring the bell attached to such engine continuously from the time of sounding such whistle until such engine shall have fully passed such crossing: Provided, That nothing herein shall be so construed as to interfere with any ordinance that has been or may hereafter be passed by any city or incorporated town in this State regulating the management or running of such engines or railroads within the limits of such city or incorporated town: Provided, further, That all penalties incurred under the Act of March 29, 1879, are hereby repealed. (R. S. 1897, 5467; R. S. 1894, 5307; R. S. 1881, 4020.)

[1879, p. 173. Approved March 20, 1879. In force May 31, 1879.]

Sec. 185. PENALTY FOR FAILURE. 2. Every engineer or other person in charge of or operating any such engine, who shall fail or neglect to comply with the provisions of the preceding section, shall be held personally liable therefor to the State of Indiana, in a penalty of not less than ten dollars nor more than fifty dollars, to be recovered in a civil action, at the suit of said State, in the Circuit or Superior Court of any county wherein such crossing may be located; and the company in whose employ such engineer or person may be, as well as the person himself, shall be liable in damages to any person or his representatives who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of such engineer or other person as aforesaid. (R. S. 1897, 5468; R. S. 1894, 5308; R. S. 1881, 4021.)

Sec. 186. SUITS FOR. 3. All actions for the recovery of the penalties prescribed in the preceding section shall be prosecuted in

the name of the State of Indiana, by the Prosecuting Attorney of any county where such failure or neglect, as aforesaid, may occur; and such Prosecuting Attorney shall be entitled to recover and receive for his services in such cases, as a docket-fee, twenty dollars in each case, to be taxed as part of the costs in such cases. (R. S. 1897, 5469; R. S. 1894, 5309; R. S. 1881, 4022.)

Sec. 187. DAMAGES. 4. The amount of damages which may be recovered under the provisions of this Act, whether for bodily injuries or death, shall be within the discretion of the Court or jury trying the cause: Provided, That in case of death such damages shall not exceed the sum of five thousand dollars. (R. S. 1897, 5470; R. S. 1894, 5310; R. S. 1881, 4023.)

Sec. 188. PENALTY TO SCHOOL-FUND. 5. All fines and penalties collected under the provisions of this Act shall be appropriated to the benefit of the common-school fund of the State; and the Clerk of the Court wherein such fines and penalties may be assessed and recovered shall, upon receipt thereof, pay the same over to the Treasurer of said county, for the purpose aforesaid. (R. S. 1897, 5471; R. S. 1894, 5311; R. S. 1881, 4024.)

ARTICLE 4—LIABILITIES AND OBLIGATIONS.

SEC.	SEC.
189. For stock killed.	202. Drive ways to connect lands.
190. Action before Justice.	203. Owner must erect gates.
191. Action in Circuit Court.	204. Animals killed, railroad pays for.
192. Parties-defendant.	205. Sales of metal.
193. Judgment—Proceedings to reach money.	206. Sales of metal.
194. Proceedings to collect Justice's judgment.	207. Duty of purchaser.
195. Not liable, if road fenced.	208. Confusion of goods.
196. Contempt.	209. Replevin—Proof.
197. Fencing right-of-way.	210. Advancing rates restricted.
198. Land owners may build—Railroad to pay.	211. Agents for process.
199. When land owner may repair.	212. Written authority.
200. Liability for stock killed.	213. Clerk's duty.
201. Gates at farm crossings.	214. Suit to compel.
	215. Issue and trial.
	216. Judgment and proceedings.

[1877 S., p. 61. Approved March 14, 1877. In force July 2, 1877.]

Sec. 189. FOR STOCK KILLED. 1. Any railroad corporation, lessee, assignee, receiver, and other person or corporation, running, controlling, or operating any railroad into or through this State, shall be liable, jointly or severally for stock killed or injured by the locomotives, cars, or other carriages run on such road, in the name in

which the road was run or operated at the time, to the extent and according to the provisions of this Act; and the bills of lading usually issued at any railroad station in the county in which such stock was killed or injured shall be prima facie evidence as to the character or name in which said railroad was owned, held, controlled, or operated. (R. S. 1897, 5472; R. S. 1894, 5312; R. S. 1881, 4025.)

[1863, p. 25. Approved and in force March 4, 1863.]

Sec. 190. ACTION BEFORE JUSTICE. 2. Whenever any animal or animals shall be or shall have been killed or injured by the locomotives, cars, or other carriages used on any railroad in or running into or through this State, whether the same may be or may have been run and controlled by the company, or by the lessee, assignee, receiver, or other person, the owner thereof may go before some Justice of the Peace of the county in which such killing or injuring occurred, and file his complaint in writing; and such Justice shall fix a day to hear said complaint, and shall cause at least ten days' notice to be served on the railroad company, by the service of a summons, by copy, on any conductor of any train passing into or through said county. But in all cases where the value of any animal or animals so killed, or the injury done, shall exceed fifty dollars, the owner or owners of any such animal or animals may file his or their complaint, and prosecute his or their claim, before such Justice of the Peace, or in the Circuit Court of the county, at his or their opinion. (R. S. 1897, 5473; R. S. 1894, 5313; R. S. 1881, 4026.)

Sec. 191. ACTION IN CIRCUIT COURT. 3. When such complaint shall be filed in the Circuit Court, the Clerk of said Court shall issue a summons thereon as in other cases; which summons shall be served by the Sheriff on the railroad company defendant, at least ten days before the first day of the term at which such cause is to be heard; and such summons may be served by copy, on any conductor on any train on said road passing into or through said county. (R. S. 1897, 5474; R. S. 1894, 5314; R. S. 1881, 4027.)

Sec. 192. PARTIES-DEFENDANT. 4. The action may, in all cases contemplated by this Act, be brought against the railroad as defendant, whether the same is or was run by the company, or by a lessee, assignee, receiver, or other person, in the name of such company. (R. S. 1897, 5475; R. S. 1894, 5315; R. S. 1881, 4028.)

Sec. 193. JUDGMENT—PROCEEDINGS TO REACH MONEY.

5. On the hearing of any such cause, the Court or jury trying the same shall give judgment for the plaintiff or plaintiffs for the value of the animal or animals killed or the injury done, without regard to the question whether such killing or injury was the result of willful misconduct or negligence or the result of unavoidable accident; and if such cause be commenced in the Circuit Court of the county in which such animal or animals are killed or such injury done, the Court shall, on motion of the plaintiff or plaintiffs, on the rendition of such judgment, or afterward, at any time, when notice of such motion has been served on the railroad company defendant at least ten days before the first day of the term of the Court at which such motion is to be heard, order a writ to issue, directed to the Sheriff of the proper county, for any agent, conductor, or employee of such railroad company, or of the lessee, receiver, or assignee of such company, named in such motion, to appear forthwith, or at such time as the Court may direct, and answer upon oath as to the amount of money in his hands, if any, belonging to such company, or to such assignee, lessee, or receiver as aforesaid, and also as to the probable amount of money receivable by such agent, conductor, or employee as aforesaid, belonging to such railroad company, lessee, assignee, or receiver as aforesaid; and if such agent, conductor, or employee, as aforesaid, shall answer that he has or that they have any such money, or are in the constant receipt of money as such agent, conductor, or employee as aforesaid the Court shall order such agent, conductor, or employee, as aforesaid, to pay into the Clerk's office of such Court, at such times as may be named by the Court, such proportions of the money so held or receivable as aforesaid, not exceeding one-half the amount thereof, as may be deemed just by the Court, until such judgment and costs are fully paid and satisfied. (R. S. 1897, 5476; R. S. 1894, 5316; R. S. 1881, 4029.)

Sec. 194. PROCEEDINGS TO COLLECT JUSTICE'S JUDGMENT.

6. Any person obtaining a judgment before a Justice of the Peace for any animal or animals killed or injured by the cars, locomotives, or other carriages of any railroad in this State, upon the filing of a certified transcript of such judgment in the office of the Clerk of the Circuit Court of the county in which such animal or animals were killed or injured, and upon the Clerk of such Court entering the same on the order book thereof, upon notice and motion made in such Court, as specified in the preceding section, shall be entitled to

the order and proceedings as therein specified. (R. S. 1897, 5476; R. S. 1894, 5317; R. S. 1881, 4030.)

Sec. 195. NOT LIABLE, IF ROAD FENCED. 7. This Act shall not apply to any railroad securely fenced in, and if such fence be properly maintained by such company, lessee, assignee, receiver, or other person running the same. (R. S. 1897, 5477; R. S. 1894, 5318; R. S. 1881, 4031.)

Sec. 196. CONTEMPT. 8. Any agent, conductor, or employe who shall fail, refuse, or neglect to perform or obey the order of the Court, as specified in this Act, shall be deemed guilty of contempt of the Court, and fined in any sum not exceeding five hundred dollars, to which may be added imprisonment in the county jail for a period not exceeding six months. (R. S. 1897, 5478; R. S. 1894, 5319; R. S. 1881, 4032.)

[1885, p. 224. Approved April 13, 1885. In force July 18, 1885.]

Sec. 197. FENCING RIGHT-OF-WAY. 1. Any railroad corporation, lessee, or assignee, or receiver, or other person or corporation running, controlling or operating, or that may hereafter construct, build, run, control or operate any railroad into or through this State, shall, within twelve months from the day of the taking effect of this Act, as to those already completed, and within twelve months from the date of the construction and completion of any part of a line of road hereafter constructed, erect, build, construct and thereafter maintain fences, which may be constructed of barbed wire, on both sides of such railroad throughout the entire length, completed within the State of Indiana sufficient and suitable to turn and prevent cattle, horses, mules, sheep, hogs, or other stock from getting on such road, except at the crossings of public roads and highways, and within such portions of cities and incorporated towns and villages as are or may hereafter be laid out and platted into lots and blocks, and shall, also, in like manner and within the time hereinbefore prescribed, construct where the same has not already been done, and thereafter maintain at all public road and highway crossings now existing or hereafter established, barriers, and cattle-guards suitable and sufficient to prevent cattle, horses, sheep, hogs and other stock from getting on such railroad: Provided, however, When such fences and cattle-guards are not made as herein provided, or when such fence or cattle-guards are not kept in repair, such railroad corporation or persons

operating the same, shall be liable for all damages which may be done by the agents, employes, engineers, or cars of such corporation or person operating the same, to any such cattle, horses, sheep, hogs or other stock thereon: Provided, however, That such railroad corporation or other person operating the same shall not be required to fence such railroad track through unimproved and uninclosed lands, and the provision of this Act shall not apply to such parts and portions of any such railroad which runs through unimproved and uninclosed lands, but when such lands become improved and inclosed on three sides the same shall apply, and such railroad corporation or person operating the same shall be required to fence the same under the provisions of this Act within six months from the date of such inclosure. (R. S. 1897, 5479; R. S. 1894, 5223.)

Sec. 198. LAND OWNERS MAY BUILD — RAILROAD TO PAY. 2. If such railroad corporation, lessee, assignee, receiver, or other person or corporation aforesaid neglect or refuse to construct such fence, barriers or cattle-guards as provided in the preceding section, the owner of any lands abutting on the land or right-of-way of said railroad shall have the right (after giving thirty days' notice in writing of his intention so to do, to be served upon the nearest freight receiving and shipping agent employed by the company, or person controlling and operating said railroad) to enter upon the land, right-of-way and track of said railroad, and may build, erect and construct such fences, barriers and cattle-guards as therein provided for, so far as the lands of such land owner abut on the land and right-of-way of such railroad, and when he has completed the same he may present for payment to the agent of such corporation or person controlling and operating such road, at the nearest shipping station to the tract of land so fenced, an itemized statement verified by the affidavit of such person, or his agent, of the expenses thereof, including material and labor, and if such corporation or person so operating said road neglect or refuse for sixty days to pay said account, such land owner may recover in any Court of competent jurisdiction, the reasonable value of such fence, barrier and cattle-guards from said corporation or person operating the same, together with reasonable attorney's fees: Provided, however, If such railroad corporation or other person operating the same so liable for the value of such fence, cattle-guards and barriers, shall, within said sixty days, make a tender of a sum of money to such person in satisfaction of such claim or liability against such corporation or person, and such person to whom such tender is made shall refuse to accept the same in satisfaction of such claim, and

shall sue for the recovery of the value of such fence, barriers and cattle-guards, and shall not recover more than the amount so tendered, he shall not in such action recover attorney's fees. (R. S. 1897, 5480; R. S. 1894, 5324.)

Sec. 199. WHEN LAND OWNER MAY REPAIR. 3. When such fence, barrier and cattle-guards are completed, such railroad corporation, lessee, assignee, receiver, or other person or corporation operating and controlling the same shall keep the same in good repair and sufficient to answer the purposes for which constructed, and if any such corporation, lessee, assignee, receiver, or other person or corporation shall permit any part of the fence, barrier, or cattle-guards to get out of repair so that it will not turn cattle, horses, mules, sheep, hogs or other stock, the owner of the land abutting upon the land or right of way of such railroad may notify the agent, in writing, for receiving and shipping freight at the station nearest the tract of land so owned by such person, that a portion of the fence is out of repair, stating where the same is out of repair, and the probable cost of making such repair, and if such railroad corporation, lessee, assignee, receiver or other person or corporation, shall fail for thirty days to make or commence such repairs, such abutting land owner shall have the right to enter upon the land, right-of-way, and railroad track, and make such repairs, and shall furnish a sworn itemized account of the cost of such repairs, including the material necessarily used and the labor, to the agent aforesaid, and if such bill is not paid within sixty days from the time the same was so furnished to such agent, the said party so making such repairs may recover the reasonable value of such repairs so made from such railroad corporation, lessee, assignee, receiver, or other person or corporation so controlling and operating the same, together with reasonable attorney's fees: Providing, That in case the said railroad corporation or person operating the same, liable for such repairs, shall, within said sixty days, tender to such person so making such repairs a sum of money in satisfaction of such repairs made by him, and such person shall refuse to accept the same, and shall sue for the recovery of the value of such repairs, and shall not recover more than was so tendered, he shall not recover attorney's fees in such suit. (R. S. 1897, 5481; R. S. 1894, 5325.)

Sec. 200. LIABILITY FOR STOCK KILLED. 4. Nothing in this Act contained shall in any manner affect or change the liability of railroad corporations, or of the assignees, lessees, or receiver of such corporations, for stock killed or injured upon their railroads; but

such liability shall exist and be governed by laws now in force the same as if this Act had never been passed. (R. S. 1897, 5482; R. S. 1894, 5326.)

Sec. 201. GATES AT FARM CROSSINGS. 5. All gates and bars at farm crossings, shall, in the absence of a contract or agreement to the contrary, be constructed and maintained and kept closed by the owner of such farm crossing. (R. S. 1897, 5483; R. S. 1894, 5327.)

[1885, p. 148. Approved and in force April 8, 1885.]

Sec. 202. DRIVE WAYS TO CONNECT LANDS. 1. Owners of tracts of land separated by the right-of-way of a railroad company may, if such right-of-way has been or shall hereafter be acquired by condemnation and appropriation, construct and maintain wagon and drive-ways over and across such right-of-way leading from one of such tracts to another on the opposite side of such right-of-way at any point most convenient to such owner. For this purpose such owner may enter upon such right-of-way and construct such embankment or make such excavation on both sides of the track of such railroad as may be necessary to establish easy grades from one tract of land to the opposite, and may spike planks on the ties of such railroad on the line of such way for the space of the width of such ways, of such thickness as not to be elevated above the tops of the rails of such railroads, and may also bridge the gutters at the sides of such railroad track in such manner as not to obstruct the flow of water therein. (R. S. 1897, 5484; R. S. 1894, 5320.)

Sec. 203. OWNER MUST ERECT GATES. 2. When such railroad is fenced on one or both sides at the point where such way is constructed such owner shall erect and maintain substantial gates in the line of such fence or fences across such way, and keep the same securely locked, when not in use by himself or employes. (R. S. 1897, 5485; R. S. 1894, 5321.)

Sec. 204. ANIMALS KILLED, RAILROAD PAYS FOR. 3. If animals are killed or injured on the track of such railroad by the cars or locomotives thereof, the company owning or operating such railroad, shall not be liable to pay damages therefor if such animal entered upon the track of such railroad through such gates, unless it shall be proved that such killing or injury was caused by the negligence of the servants of the company owning or operating such railroad. (R. S. 1897, 5486; R. S. 1894, 5322.)

[1881 S., p. 555. Approved and in force April 8, 1881.]

Sec. 205. SALES OF METAL. 1. No officer, agent, or employe of a company operating a railroad (except the superintendent, general managing agent, or the receiver of the company) shall sell or dispose of worn or scrap-metal, or any iron, brass, or other metals, owned by the company; and all sales and barter of such scrap or other metals owned by a company, made by any other officer, agent, or employe than such superintendent, general managing agent, or receiver, shall be null and void; and no such superintendent, general managing agent, or receiver shall sell or dispose of any such scrap or other metals in quantities less than one ton, nor without delivering to the purchaser a bill of sale thereof, a copy of which shall be retained and filed in the office of such superintendent, managing agent, or receiver. (R. S. 1897, 5487; R. S. 1894, 5328; R. S. 1881, 4033.)

Sec. 206. SALES OF METAL. 2. If a superintendent, general managing agent, or receiver of any company sell or dispose of any railroad scrap-metal in quantities less than one ton, or sell or dispose of such metal in any quantity without delivering a bill of sale thereof to the purchaser, the company which he represents shall not thereafter be entitled to the benefit of the three succeeding sections. (R. S. 1897, 5488; R. S. 1894, 5329; R. S. 1881, 4034.)

Sec. 207. DUTY OF PURCHASER. 3. The person, company, or firm to whom is offered for sale, pledge, or trade any worn or used links, pins, journal-bearings, or other worn or used and detached appendages of railroad equipment, or any scrap-metal of iron, brass, or steel appertaining to such equipment or to a railroad track, shall, before purchasing or dealing in the same, ascertain whether the ownership thereof is lawfully derived, by bill of sale, or otherwise, from a company, or from the superintendent, managing agent, or receiver thereof; and in any action in which the right or title to such article or metal is drawn in question, the person, company, or firm dealing therein, or his or its assignee, party to such action, shall be bound to establish and prove, prima facie, the title and ownership derived as aforesaid. (R. S. 1897, 5489; R. S. 1894, 5330; R. S. 1881, 4035.)

Sec. 208. CONFUSION OF GOODS. 4. If in such action it appear, prima facie, from the evidence on the trial, that any of the articles or metals in controversy were stolen or unlawfully obtained, and mixed or confused with other scrap-metal, it shall be deemed a confusion of goods, unless the party claiming against the title of the

company established, *prima facie*, a lawful title to the residue from or through a railroad company. (R. S. 1897, 5490; R. S. 1894, 5331; R. S. 1881, 4036.)

Sec. 209. REPLEVIN—PROOF. 5. A company, by its proper officer or agent or the receiver thereof, may claim to be the general owner of, and may replevy, any of the metals or articles mentioned in section three of this Act [Sec. 207], and any metals with which they have been confused, as aforesaid, whenever found in the possession of any person, firm, or company, wherever there is good reason to believe that such metals or articles have been stolen or unlawfully taken from a railroad company or its receiver; and, instead of the usual averment as to ownership in the affidavit for a writ of replevin, it shall be sufficient for the officer or agent of such company, or the receiver, to aver that he believes such metals or articles to have been unlawfully taken from such company or some other company; and the person, firm or company claiming in such action, or any other action, the right or title to any such metals or articles, shall be required to establish and prove, *prima facie*, a right or title thereto, lawfully derived, as provided in the preceding sections. In the absence of such proof, the company or receiver claiming such metals or articles shall be held and considered to be the general owner thereof; but any other company or receiver, upon showing that any part of such metals or articles was unlawfully taken from it or him, shall be entitled to such part, upon payment of a proper share of the costs and the expenses of the replevy thereof. And if any company or its receiver replevy any property under the provisions of this section, without good and reasonable cause to believe that the same was unlawfully taken from some company or its receiver, such company or receiver shall be liable to the party entitled thereto in any sum not exceeding double the amount of the value of the property so replevied, in addition to such damages as such party sustains thereby. (R. S. 1897, 5491; R. S. 1894, 5332; R. S. 1881, 4037.)

[1867, p. 162. Approved March 14, 1867. In force June 6, 1867.]

Sec. 210. ADVANCING RATES RESTRICTED. 1. The various railroad corporations doing business within the State of Indiana shall not, at any time, increase or advance their rates of freight, or charge for the transportation thereof from one point to another a sum greater than the rate of freight or charge for transportation asked or charged by said railroad corporations at the time such freight is

offered or tendered to said railroad corporations for transportation. (R. S. 1897, 5492; R. S. 1894, 5333; R. S. 1881, 4038.)

[1877 S., p. 62. Approved and in force March 16, 1877.]

Sec. 211. AGENTS FOR PROCESS. 1. Every railroad corporation, owning any railroad or the franchises thereof created under any law of this State, and having no office, director, or fixed place of business in this State, and the vendee, lessee, or other party owning, running, controlling, or operating any railroad into or through this State shall appoint and keep an agent in each and every county in this State into or through which such railroad may run, on whom process may be served in any action brought in the proper county against any of the parties herein named, the service on whom shall be held to be a legal service on the defendant, the same as if service had been made on the president and directors thereof. (R. S. 1897, 5493; R. S. 1894, 5334; R. S. 1881, 4039.)

Sec. 212. WRITTEN AUTHORITY. 2. Each and every party mentioned in the preceding section shall file a written instrument in the Clerk's office of each and every county in this State, into or through which said railroad may run, under the seal of such corporation, vendee, lessee, or other party owning, running, controlling, or operating any railroad into or through this State, signed by the president and secretary, if any, authorizing the service of such process, and consenting that the service thereof upon such agent shall be held to be valid in law, and waiving the benefit of error on appeal, by reason of service having been made on such agent. (R. S. 1897, 5494; R. S. 1894, 5335; R. S. 1881, 4040.)

Sec. 213. CLERK'S DUTY. 3. The Clerk of the Circuit Court, on receipt of the instrument in this Act mentioned, shall record the same in the order book of said Court, and index the same; for which he shall be entitled to a fee of one dollar. (R. S. 1897, 5495; R. S. 1894, 5336; R. S. 1881, 4041.)

Sec. 214. SUIT TO COMPEL. 4. Should any party contemplated by the requirements of this Act fail or refuse to file such written instrument for sixty days from the time this Act shall be in force, it shall be the duty of the Prosecuting Attorney of every county into or through which such railroad may run to file an information in the name of the State, on his own relation, against the defaulting parties

herein named, concisely and substantially setting forth such failure. On such information having been filed, the Clerk shall make two certified copies of such information, under the seal of the Court, to which he shall attach a notice in the nature of a summons, stating the time and place the information shall be called for hearing. The copies of such information shall be placed in the hands of the proper Sheriff, who shall mail one of said copies, postage paid, and directed to the president and directors, in care of the secretary of such defaulting party, to the postoffice at the place where such party may have his, her or their principal office. On the copy retained, the Sheriff shall make his return of service. (R. S. 1897, 5496; R. S. 1894, 5337; R. S. 1881, 4042.)

Sec. 215. ISSUE AND TRIAL. 5. Every such information shall stand for issue and trial at the first term after the same shall have been made, by mailing a copy of such information and summons fifteen days before the first day of the term of the Court from which such process was issued. (R. S. 1897, 5497; R. S. 1894, 5338; R. S. 1881, 4043.)

Sec. 216. JUDGMENT AND PROCEEDINGS. 6. On the hearing of the information, if the Court be satisfied from the evidence that the requirements of this Act have not been complied with, the Court shall order and fix a reasonable time within which such defaulting party shall file such written instrument in the Clerk's office of the county, with a judgment for the costs of the suit, and a docket fee of ten dollars for the use of the Prosecuting Attorney; and on failure to comply with the order of the Court and payment of costs and Prosecuting Attorney's fee within the time fixed by the Court, the Clerk shall issue a restraining order, under the seal of the Court, to the Sheriff of the county, commanding him to take, seize, and hold the road within his bailiwick, until the order of the Court shall have been complied with, and the Sheriff, by virtue of the said writ, shall take, seize, and hold said road and prevent the use thereof, for railroad purposes, until the order of the Court shall have been complied with. (R. S. 1897, 5498; R. S. 1894, 5339; R. S. 1881, 4044.)

ARTICLE 5—PUBLIC AID.

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- 217. Petition for township.
- 218. Order for election.
- 219. Notice of election.
- 220. Election.
- 221. Challenges.
- 222. Ballots.
- 223. Certificate of election board.
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- 245. Location of road precedes tax.
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- 269. Payment of aid.
- 270. Election expenses.
- 271. Additional time.

[1889, p. 82. Approved and in force March 2, 1889.]

Sec. 217. PETITION FOR TOWNSHIP. 1. Whenever a petition shall be presented to the Board of Commissioners of any county in this State, at any regular or special session thereof, signed by twenty-five freeholders of any township of such county, asking such township to make an appropriation of money to aid the railroad company named in such petition, and then duly organized under the laws of this State, in constructing a railroad in or through such township, or to aid any railroad company having its road already constructed into or through such township, in the reconstruction of the same, by changing or completing the change of gauge of its line of road, or otherwise, by taking stock in or donating money to such company, whenever such township may have heretofore voted aid for the construction of such road to the company named in the petition, or its predecessors: Provided, It shall be first ascertained by said Board of Commissioners that the reconstruction of such road, changing its gauge, or otherwise improving the same as contemplated in said petition, will be of public utility and benefit to the citizens of the township so petitioning to the amount and upon the terms and conditions as to freight,

rates, location of machine shops, depots, and such other terms and conditions as may be specified in such petition, not exceeding, however, two per centum upon the amount of taxable property of such township on the tax duplicate of the county delivered to the Treasurer of the county for the preceding year. It shall be the duty of such Board of Commissioners, after being satisfied that such petition has been properly signed by the requisite number of freeholders of such township as aforesaid, to cause the same to be entered at full length upon their records. (R. S. 1897, 5499; R. S. 1894, 5340.) (1) A city may aid a railroad by subscribing for its stock. (R. S. 1897, 5499; R. S. 1894, 5340.) (1) A city may aid a railroad company by subscribing for its stock. (R. S. 1897, 3680; R. S. 1894, 312; R. S. 1881, 3152.)

[1875 S., p. 70. Approved March 17, 1875. In force August 24, 1875.]

Sec. 218. ORDER FOR ELECTION. 2. The Board of Commissioners shall take said petition under advisement, and, thereupon, order the polls at the several voting places of the township so petitioning to be opened on a day to be named in the order (which shall not be less than thirty nor less more than sixty days thereafter), and the votes of the legal voters of such township named in said petition to be taken upon the subject of appropriating money by such township, for the purpose of aiding in the construction of such railroad, as prayed for in said petition. The judges and inspectors of elections shall be governed in the reception of votes, by the laws then in force regulating general elections. (R. S. 1897, 5500; R. S. 1894, 5341; R. S. 1881, 4046.)

Sec. 219. NOTICE OF ELECTION. 3. The Auditor of such county shall immediately give notice, to be published for at least four weeks successively in some newspaper of general circulation in the county, or, if none be published, then in some newspaper most convenient thereto, and by printed hand-bills, to be posted in ten public places in the township where the appropriation is prayed for in the petition. Said hand-bills shall be posted by the Sheriff of the county three weeks prior to the day fixed for taking the vote of the township named in said petition; and the same, as well as said newspaper publications, shall notify the qualified voters of said township that the polls will be opened, on the day fixed by the order of the Board of Commissioners, at the several voting places in such township, to take the votes of the legal voters thereof upon the subject of such township aiding in the construction of the railroad named in such petition, to an

amount to be specified in such notice; and the Auditor of the county shall make his official certificate that said notice was published, and said Sheriff shall make his like certificate that said hand-bills were posted as required by this Act; which certificates shall be entered upon the records of the Board of Commissioners, and shall be sufficient evidence of the facts therein stated. (R. S. 1897, 5501; R. S. 1894, 5342; R. S. 1881, 4047.)

Sec. 220. ELECTION. 4. The polls shall be opened at the several voting places in the township, by the proper judges and inspectors of elections, on the day fixed by said Commissioners; and the boards shall be organized, and poll books and tally-sheets shall be kept, and the whole voting and taking and certifying shall be conducted as nearly as may be in the manner provided by law for conducting the voting and certifying the votes at the general elections for State and county officers. (R. S. 1897, 5502; R. S. 1894, 5343; R. S. 1881, 4048.)

[1869 S., p 92. Approved and in force May 12, 1869.]

Sec. 221. CHALLENGES. 5. The qualifications of voters, to vote at the polls to be opened as required by this Act, shall be ascertained, and challenges shall be allowed, in the same manner as is now or may be provided by law for ascertaining the qualifications of voters and making challenges at general elections. (R. S. 1897, 5503; R. S. 1894, 5344; R. S. 1881, 4049.)

Sec. 222. BALLOTS. 6. The ballots used at such voting, as provided for in this Act, shall be written or printed; and those cast for the appropriation by the county or township, as the case may be, to aid such railroad company, shall contain the words, "For the railroad appropriation," and those cast against it shall contain the words, "Against the railroad appropriation;" and if two or more ballots shall be found purposely folded together they shall be rejected. (R. S. 1897, 5504; R. S. 1894, 5345; R. S. 1881, 4050.)

Sec. 223. CERTIFICATE OF ELECTION BOARD. 7. When the ballots shall be counted, the board of judges shall make out a certificate, under their hands, stating, in words, the number of votes given for the appropriation to the railroad company, and the number given against such appropriation; and such certificate, together with one of the lists of voters or poll-books and one of the tally-sheets, shall

be deposited with the inspector or with one of the judges selected by the board of judges. (R. S. 1897, 5505; R. S. 1894, 5346; R. S. 1881, 4051.)

[1875 S., p. 70. Approved March 17, 1875. In force August 24, 1875.]

Sec. 224. CANVASS OF VOTES. 8. If there be more than one election precinct in the township asking to make such appropriation, the inspector of each precinct, or the judge of the election to whom such certificate, poll-book, and tally-sheet shall have been delivered, shall constitute a board of canvassers, who shall canvass and estimate the certificates, poll-books, and tally-sheets returned by each member of said board; for which purpose they shall assemble at the court house on the Thursday next succeeding the day of such voting, between the hours of ten o'clock A. M. and six o'clock P. M. If, however, such township shall have but one election precinct, then the inspector and judges thereof, or any two of them, shall constitute the board of canvassers, and shall meet at the time and place aforesaid, and perform the duties aforesaid. (R. S. 1897, 5506; R. S. 1894, 5347; R. S. 1881, 4052.)

[1869 S., p. 92. Approved and in force May 12, 1869.]

Sec. 225. OFFICERS. 9. The members of the board who shall assemble at such time and place shall select one of their number chairman, and the Auditor shall act as clerk. (R. S. 1897, 5507; R. S. 1894, 5348; R. S. 1881, 4053.)

Sec. 226. DUTY OF CANVASSERS. 10. Such board, when organized, shall carefully compare and examine the papers, and shall prepare and sign a statement of the whole number of votes cast, and the number for such appropriation to the railroad company and the number against it. (R. S. 1897, 5508; R. S. 1894, 5349; R. S. 1881, 4054.)

Sec. 227. AUDITOR'S DUTY. 11. The statement of such vote, as provided in the preceding section, shall be filed with the said Auditor, who shall record the same at full length in the records of the Board of Commissioners of said county, and carefully file away and preserve the certificates, poll-books, and tally-sheets aforesaid. (R. S. 1897, 5509; R. S. 1894, 5350; R. S. 1881, 4055.)

Sec. 228. DUTY OF COUNTY BOARD—TAX. 12. If a majority of the votes cast shall be in favor of such railroad appropriation, the Board of County Commissioners, at its ensuing regular June session, shall grant the prayer of said petition, and shall levy a special tax of at least one-half the amount specified in said petition, but not exceeding one per centum upon the real and personal property in the county or township, as the case may be, liable to taxation for State and county purposes; which tax shall be collected in all respects as other taxes are collected for State and county purposes. And if the sum so levied shall not be equal to the amount specified in said petition, then the residue thereof shall be levied by said Board of County Commissioners at the June session of the following year. (R. S. 1897, 5510; R. S. 1894, 5351; R. S. 1881, 4056.)

[1875 S., p. 70. Approved March 17, 1875. In force August 24, 1875.]

Sec. 229. LIMIT OF AID. 13. No township shall be authorized by the provisions of this Act to appropriate to railroad purposes, or to raise by taxation for such purpose, to exceed two per centum upon the taxables of such township, as said taxables shall appear upon the tax duplicate of the county, in any one period of two years. (R. S. 1897, 5511; R. S. 1894, 5352; R. S. 1881, 4057.)

[1879, p. 46. Approved and in force March 8, 1879.]

Sec. 230. STOCK OR DONATION—CONTRACT. 14. Said Board of Commissioners may, after the assessment herein provided for, or any part thereof, shall have been collected, take stock in such railroad company, from time to time, in the name of the proper township, and pay therefor when the same is taken, out of the moneys so collected as aforesaid; or they may donate such moneys to said company for the purpose of aiding in the construction of such railroad, and pay the same over, from time to time, as the work progresses, as hereinafter provided: Provided, That in taking such stock or making such donations, the Board of Commissioners shall make a contract with such railroad company, as to freight, rates, location of machine shops, depots, and such terms as may have been specified and set forth in the petition upon which such moneys were voted; and when said contract is so made, the Board of Commissioners shall cause the same to be spread of record in the Auditor's office of such county; and when said contract is so made, the Township Trustee of such township, or any resident taxpayer thereof, is hereby empowered to bring suit, in the

name of such township, in any Court of competent jurisdiction, to enforce the terms and conditions thereof. (R. S. 1897, 5512; R. S. 1894, 5353; R. S. 1881, 4058.)

[1869 S., p. 92. Approved and in force May 12, 1869.]

Sec. 231. BOARD MAY ADVANCE. 15. If, after the special tax shall have been levied, as provided for in the twelfth section of this Act [Sec. 228], and before it has been collected, the railroad company shall have so far completed the road to be aided as to be entitled to receive the money which the Board of Commissioners is authorized to donate, the same may be paid, on the order of the board, out of any moneys in the county treasury not otherwise appropriated, to be refunded to the county when such special tax shall have been collected. (R. S. 1897, 5513; R. S. 1894, 5354; R. S. 1881, 4059.)

Sec. 232. RESTRICTIONS. 16. No donation of money shall be made to any railroad company by such Board of County Commissioners until the railroad to be constructed shall have been permanently located, and work thereon done and paid for by the company equal to the amount of the donation then made; nor shall, to exceed fifty per cent. of the money voted to be appropriated to such railroad company, be donated and paid over to the company until the iron is laid upon the road and a train of cars shall have passed over the entire length thereof in such county or township, as the case may be. (R. S. 1897, 5414; R. S. 1894, 5355; R. S. 1881, 4060.)

[1875 S., p. 70. Approved March 17, 1875. In force August 24, 1875.]

Sec. 233. RIGHTS OF RAILROAD COMPANY. 17. After the money authorized by this Act to be appropriated shall have been levied and collected as aforesaid, and the subscription shall have been made on behalf of the township, the railroad company for whose aid the same shall have been levied and collected having fully constructed the railroad contemplated in said petition, so that trains of cars shall pass over the same, shall have the right to demand and have said money paid over according to the intent and meaning of this Act; and any one of said petitioners, or any taxpayer of the township, may compel the same to be done by mandate against the County Commissioners. (R. S. 1897, 5515; R. S. 1894, 5356; R. S. 1881, 4061.)

[1869 S., p. 92. Approved and in force May 12, 1869.]

Sec. 234. RIGHTS, WHEN FORFEITED. 18. A failure on the part of the railroad company to commence work upon the railroad in said county within one year from the levying of such special tax, or failure to complete such railroad ready for use within three years from such levying, shall forfeit the rights of such company to such donation, unless the County Commissioners, for good cause shown, shall give not to exceed one year's further time in which to complete the same; and the money raised by said special tax shall go into the general fund of the county or township, as the case may be, and be used accordingly. (R. S. 1897, 5516; R. S. 1894, 5357; R. S. 1881, 4062.)

[1893, p. 27. Approved and in force February 16, 1893.]

Sec. 235. FORFEITURE. 1. Whenever any tax has been or may hereafter be levied and collected under and pursuant to the provisions of an Act entitled "An Act to authorize aid to the construction of railroads by counties and townships taking stock in and making donations to railroad companies," approved May 12, 1869, and the Acts amendatory thereof and supplemental thereto, a failure on the part of the railroad company for the benefit of which the tax was or may be hereafter levied and collected to complete said railroad for use and in accordance with each and every condition upon which such stock was or may hereafter be subscribed, or such donation has been or may hereafter be made, within five years from the date of such levy, shall forfeit all right of such railroad company to such donation and money collected for the payment of subscription to the stock of said railroad company, and the money so levied and collected shall revert to, and become the property of the taxpayers from whom the same was collected, in the proportion by them severally paid. (R. S. 1897, 5517; R. S. 1894, 5358.)

Sec. 236. PROCEEDINGS TO SECURE FORFEITURE. 2. Whenever any money has been forfeited under the provisions of section 1 of this Act, any taxpayer who paid any part of such tax, may file his complaint in the Circuit Court of the county in which the tax was collected, making defendants thereto the railroad company, for the benefit of which the tax was levied and collected, or its assigns, if any, and the Treasurer of such county, and such taxpayer shall set forth in his complaint particularly in what such company has failed to

comply with the law and conditions upon which the donation or subscription to stock was made. (R. S. 1897, 5518; R. S. 1894, 5359.)

Sec. 237. JUDGMENT OF FORFEITURE. 3. Upon due proof made of the forfeiture of such company to comply with the law or the conditions upon which said donation or subscription to stock was made, or that the said road has not been constructed and completed in accordance with any and all conditions above named, the Court shall adjudge that said railroad company has forfeited all right to and interest in said money levied and collected as aforesaid, and that the several sums paid by the plaintiff taxpayers revert to them and that the same shall by the Treasurer of the county be paid to the plaintiffs, each the amount he paid upon such tax. (R. S. 1897, 5519; R. S. 1894, 5360.)

Sec. 238. JOINT ACTIONS. 4. Any taxpayer may bring his action separately and two or more taxpayers may join in one action when seeking relief under the provisions of this Act. (R. S. 1897, 5520; R. S. 1894, 5361.)

Sec. 239. PROCESS. 5. When any railroad company or its assigns for whose benefit such donation has been or may hereafter be made and stock has been or may hereafter be subscribed and taken, has no agent or other person within the county upon whom service of summons may be made upon the return of the Sheriff to that effect, publication may be made as in other cases, and if, at the time of filing the complaint the plaintiff or plaintiffs or his or their attorney files his or their affidavit that said railroad has no officer or agent in the county upon whom service can be made the publication may be made. (R. S. 1897, 5521; R. S. 1894, 5362.)

[1869 S., p. 92. Approved and in force May 12, 1869.]

Sec. 240. ELECTION EXPENSES. 19. The officers conducting the election provided in this Act shall be allowed the same pay as is allowed for like services in case of a general election. Should the election result in favor of a railroad appropriation, the expenses of the election, after being paid by the county or township, as the case may be, shall be charged against the railroad company benefited, and deducted out of the first moneys collected by virtue of the appropriation. (R. S. 1897, 5522; R. S. 1894, 5363; R. S. 1881, 4063.)

[1879, p. 46. Approved and in force March 8, 1879.

Sec. 241. NON-LIABILITY OF COUNTY OR TOWNSHIP.

3. No county or township which shall become the owner or holder of any stock in any railroad company shall in any case, be liable for any debt or claim for work, labor, or material incurred in building such road, after the assets of the company shall be exhausted. (R. S. 1897, 5523; R. S. 1894, 5364; R. S. 1881, 4064.)

[1872 S., p. 56. Approved and in force December 24, 1872.

Sec. 242. REFUNDING TAX. 1. In all cases where a county or township tax has been levied and collected in pursuance of the provisions of the Act to authorize aid in the construction of railroads by counties and townships taking stock in and making donations to railroad companies, approved May 12, 1869, and the right of the railroad company to such tax has become forfeited by failure to commence work on or complete such railroad, as required by said Act, the money so levied and collected shall revert, and be refunded, by the proper custodians of said money, to each taxpayer, in the proportion in which the same was collected, the legal collection fees thereof to be paid out of the general fund of the county: Provided, however, That the County Commissioners may determine to place the said tax in the general fund of the county; in which case the taxpayers thereof shall be credited upon the duplicate in the same proportion in which the tax was collected: And provided, further, That the County Commissioners and the respective Township Trustees may determine to place the township tax so collected into the township fund; in which case the taxpayers thereof shall be credited upon the duplicate in the same proportion in which the tax was collected; and in either case the legal collection fees shall be paid out of the county or township fund, as the case may be. (R. S. 1897, 5524; R. S. 1894, 5365; R. S. 1881, 4065.)

Sec. 243. WHEN TAX GOES TO GENERAL FUND. 2. In case any of such tax is not diverted into the county or township fund, and if not called for or demanded by the taxpayers thereof within two years after the passage of this Act; or within two years after the same shall have become forfeited by the railroad company, then in that event such tax shall revert to and become a part of the county or township fund, as the case may be, and the legal collection fees shall be paid out of the fund receiving said tax. (R. S. 1897, 5525; R. S. 1894, 5366; R. S. 1881, 4066.)

Sec. 244. RELEASE OF TAXPAYERS. 3. In all cases where the levies of taxes have been made in pursuance of said Act, and remain uncollected and such railroad company has failed to commence work on, or to complete such railroad as required by said Act, the taxpayers or parties against whom said levies stand charged shall be released and discharged from the payment thereof. (R. S. 1897, 5526; R. S. 1894, 5367; R. S. 1881, 4067.)

[1873, p. 184. Approved and in force January 30, 1873.]

Sec. 245. LOCATION OF ROAD PRECEDES TAX. 1. No tax shall be placed upon the duplicate of any county, for the purpose of taking stock or making donations to railroad companies, by any county or township pursuant to the provisions of an Act entitled "An Act to authorize aid to the construction of railroads, by counties and townships taking stock in and making donations to railroad companies," approved May 12, 1869 [Secs. 217, 240], until such railroad shall have been permanently located in the county or township making the donation or taking the stock. (R. S. 1897, 5527; R. S. 1894, 5368; R. S. 1881, 4068.)

[1875, p. 121. Approved and in force March 11, 1875.]

Sec. 246. SUSPENDING COLLECTION. 2. In all cases where stock has been taken or donations made by any county or township for the purpose of aiding in the construction of any railroad, pursuant to the preceding section, and the special tax authorized thereby has been placed upon the duplicate of the proper county for collection, the Auditor and Treasurer of such county shall suspend the collection of such tax, but the same shall be carried forward on the duplicate, without being returned delinquent, until such railroad is permanently located in such county or township, and has expended an amount of money, in the actual construction of such railroad in such county or township, equal to the amount to be donated to or stock to be taken in the said railroad company by said county or township. And if said railroad company shall not, within five years after said tax has been placed upon the duplicate for collection in the proper county, have expended, in the actual construction of said railroad in said county or township, an amount of money equal to the amount of money to be donated to or stock to be taken in said railroad company by said county or township, the Board of Commissioners may, in its discretion, make an order annulling and canceling such subscription of stock or donation of money, upon the application

of twenty-five freeholders of the county through which said railroad shall pass, upon said freeholders having given thirty days' public notice, immediately preceding the term of the Commisisoners' Court at which said application is to be made, of their intention to make such application: Provided, further, That whenever it is shown, to the satisfaction of the Board of Commissioners, that the amount of work done by any railroad company in any county or township taking stock in or donating money to such railroad company is equal to the stock taken or donation made, it shall be the duty of the Board of Commissioners to order said tax to be collected at once; as though the same had never been suspended: And provided, further, That the provision of this Act shall not apply to any railroad, in any case, where three years or more have elapsed since the tax, in aid thereof, shall have been placed on the tax duplicate for collection. (R. S. 1897, 5528; R. S. 1894, 5369; R. S. 1881, 4069.)

[1872 S., p. 54. Approved and in force December 17, 1872.]

Sec. 247. CERTIFICATE TO TAXPAYERS. 1. In all cases where stock has been taken by counties or townships in railroad companies, and paid for from taxes levied and collected under the provisions of the Act entitled "An Act to authorize aid to the construction of railroads, by counties and townships taking stock in and making donations to railroad companies," approved May 12, 1869 [Secs. 217 to 234], it shall be the duty of the Treasurer of the proper county, upon request, if made prior to the first day of January, 1874, to issue to the several taxpayers, and to the personal representatives of such as may have died, a certificate stating the amount of railroad tax paid by each taxpayer, the date of payment, and the name of the railroad company in aid of which the tax was levied and paid, as the facts shall appear from the proper tax duplicates and records in his office. (R. S. 1897, 5529; R. S. 1894, 5370; R. S. 1881, 4070.)

Sec. 248. SPECIAL RECEIPT. 2. Where taxes have been or shall be levied in accordance with the provisions of said Act, which shall hereafter be paid, the Treasurer of the proper county shall give to the person paying any such railroad tax a special receipt therefor, in which the facts shall be stated as in case of a certificate being given as required in the preceding section. (R. S. 1897, 5530; R. S. 1894, 5371; R. S. 1881, 4071.)

Sec. 249. RIGHTS TO STOCK. 3. The certificates and receipts provided for in the two preceding sections shall be assignable

in writing; and any lawful holder thereof may present and surrender said certificates at any time prior to January 1, 1874, and may present and surrender the said receipts to the proper railroad company at any time within four years after the tax for which they were given was paid, in sums equal in amount to any number of shares in the capital stock of such railroad company; and it shall be the duty of such company to issue a certificate of paid-up capital stock therein to the amount of the certificates and receipts so surrendered: Provided, That such company shall not be compelled to issue such certificates to individuals to an amount greater than the money it shall have received from the county or township, as the case may be, together with the expenses of the election to be paid by such railroad company under the provisions of the nineteenth section of said Act of May 12, 1869 [Sec. 240]: Provided, That the stock so issued under the provisions of this Act being involuntary in its character, no personal liability shall attach to the original holder thereof for any debt contracted by the railroad company. (R. S. 1897, 5531; R. S. 1894, 5372; R. S. 1881, 4072.)

Sec. 250. UNCLAIMED STOCK. 4. It shall be the duty of the Auditors of the several counties in which railroad taxes may have been collected and paid over for stock under the provisions of said Act of May 12, 1869, immediately after the expiration of the times for the surrender of certificates and receipts by individuals to railroad companies, as fixed in the preceding section, to ascertain from the books of the County Treasurer and the books of the proper railroad company (which he shall have the right to examine for that purpose) what amount of stock has been paid for taxes levied in the county or in a township, as the case may be, which has not been applied for by individuals upon the surrender of such certificates and receipts as aforesaid, within the times limited for that purpose. And for such amount of unclaimed stock, the proper railroad company shall, upon the request of such Auditor, issue to the several civil townships in such county, certificates of stock in proportion, as nearly as may be, to the number of children in such townships between the ages of six and twenty-one years, as shown by the then last enumeration for school purposes; which stock, with all dividends thereon, shall be for the use of the public schools of such townships, and be a part of the school fund of such townships: Provided, That if such unclaimed stock shall have been purchased by tax voted in one or more townships, and not in the whole county, the township or townships in which the same was paid shall alone be entitled to said unclaimed

stock, to be apportioned, in the case of more than one township, in manner aforesaid, upon the basis of the number of children between the said ages of six and twenty-one years. (R. S. 1897, 5532; R. S. 1894, 5373; R. S. 1881, 4073.)

Sec. 251. CANCELLATION. 5. The issuing of stock to individuals or townships for school purposes by railroad companies, as provided for in this Act, shall operate to cancel, pro tanto, the stock held by any county or township under the provisions of said Act of May 12, 1869; and all stock standing in the name of any township or county shall be the property of the individuals paying therefor, and of the several townships for school purposes, as the case may be, after individuals entitled thereto shall fail to apply therefor during the time above limited for that purpose. (R. S. 1897, 5533; R. S. 1894, 5374; R. S. 1881, 4074.)

Sec. 252. TRUSTEES TO VOTE STOCK. 6. Township Trustees shall have the right to vote the stock held by their respective townships in all meetings of stockholders of the companies by which the stock was issued; and all stock held under the provisions of this Act shall entitle the holders thereof to all the rights and privileges of stockholders who may have personally subscribed and paid for stock in such railroad companies. (R. S. 1897, 5534; R. S. 1894, 5375; R. S. 1881, 4075.)

[1875 S., p. 70. Approved March 17, 1875. In force August 24, 1875.]

Sec. 253. FORMER ACTS. 8. Nothing in this Act shall be so construed as to in any way interfere with or impair the provisions of the several Acts, supplementary to and in aid of the Acts to which this is amendatory, so far as the same may apply to aid voted to railroad companies by townships in this State: Provided, however, That whenever a vote has been taken in any county, which has resulted in favor of giving aid to any railroad under the provisions of the Act of which this is amendatory, the provisions of said Act may be continued the same as if this amendatory Act had not been enacted: Provided, further, That when the construction of any railroad has been commenced by means of aid from any of the counties on the line of such road under the provisions of said Act, votes may be taken in and aid given by other counties on the line of such road, when aid has not been refused by vote of such county, under the provisions of the Act thereby amended and the Acts supplemental and amendatory thereto. (R. S. 1897, 5535; R. S. 1894, 5376; R. S. 1881, 4076.)

[1872 S., p. 49. Approved and in force December 14, 1872.]

Sec. 254. AID TO ROADS IN OTHER STATES, BY BORDER COUNTIES, CITIES AND TOWNSHIPS. 1. Any county in this State bordering on the State line or rivers forming State boundaries, and any township therein, may, upon a vote of the majority of the legal voters thereof, and any city in such county may, upon petition of a majority of the resident freeholders thereof to the City Council subscribe to the capital stock of any railroad company, to aid in the construction of its road opposite such county in any other State or to form connection with other railroads in such counties. (R. S. 1897, 5536; R. S. 1894, 5377; R. S. 1881, 4077.)

Sec. 255. BONDS BY BORDER CITY. 2. Any city incorporated under the general laws of this State, and situate in any county bordering on the State line, or river forming the State boundary, may issue the bonds of such city, running for a period of time not exceeding twenty years, and bearing an annual interest not exceeding eight per cent., in liquidation of all subscriptions to the capital stock of any railroad made under the provisions of this Act. (R. S. 1897, 5537; R. S. 1894, 5378; R. S. 1881, 4078.)

Sec. 256. PETITION TO COUNTY BOARD. 3. Whenever a petition shall be presented to the Board of Commissioners of any county of this State bordering on the State line, or river forming the State boundary, at any regular or special session thereof, signed by one hundred or more freeholders of such county, asking said Board to make an appropriation of money (stating the amount), to aid a railroad company therein named, and coming under the provisions of the first section of this Act [Sec. 254]; or whenever such a petition shall be presented to such Board of Commissioners, as aforesaid, signed by twenty-five freeholders of any township of such county, asking such township to make an appropriation of money (stating the amount), to aid a railroad company therein named, and coming under the provisions of the said first section, by subscribing to the capital stock of such company, to aid in constructing a railroad from an adjoining State to such county, or to the State line, or river forming the State boundary opposite such county, or to connect with any other railroad in said county,—it shall be the duty of such Board of Commissioners, after being satisfied that such petition has been properly signed by the requisite number of freeholders of such county or township as aforesaid, to cause the same to be entered at full length on its records. (R. S. 1897, 5538; R. S. 1894, 5379; R. S. 1881, 4079.)

Sec. 257. ORDER FOR ELECTION. 4. Such Board of County Commissioners shall take said petition under advisement, and, thereupon, order the polls at the several voting places of the county or of the particular township, as the case may be, to be opened on a day to be named in the order, not more than sixty nor less than thirty days thereafter, and the votes of the legal voters of said county, or of the particular township named in said petition, upon the subject of appropriating money by such county or by such township, for the purpose of aiding in the construction of such railroad as asked for in said petition. The judges and inspectors shall be the same, and selected in the same manner, and said elections conducted and governed in all things as provided by the laws of this State regulating general elections. (R. S. 1897, 5539; R. S. 1894, 5380; R. S. 1881, 4080.)

Sec. 258. NOTICE. 5. The Auditor of such county shall forthwith issue a certified copy of such order of election to the Sheriff, who shall give notice thereof by publication, posting of notices, and in all other ways provided by law for holding general elections in this State; and the Auditor shall make his certificate that he issued a copy of such order of election to the Sheriff, and said Sheriff shall make his certificate that he gave notice for the holding of such election as aforesaid; which certificates shall be entered upon the records of the Board of County Commissioners, and shall be sufficient evidence of the facts therein stated. (R. S. 1897, 5540; R. S. 1894, 5381; R. S. 1881, 4081.)

Sec. 259. BALLOTS. 6. The ballots used at the elections provided for in this Act shall be written or printed; and those cast for the appropriation by a county or a township, as the case may be, to aid such railroad company, shall contain the words, "For the railroad appropriation," and those cast against it shall contain the words, "Against the railroad appropriation;" and if two or more ballots are found folded together, so that it shall appear that they were voted by the same person, both shall be rejected. (R. S. 1897, 5541; R. S. 1894, 5382; R. S. 1881, 4082.)

Sec. 260. CERTIFICATE OF VOTE. 7. When the ballots are counted, the judges of election shall make out a certificate, stating in words the number of votes at such poll for the appropriation to the railroad company, and the number given against such appropriation, and sign the same officially; and such certificate, together with one of the lists or poll-books and one of the tally-sheets, shall be deposited

with the inspector or one of the judges selected by the board of judges, and such inspectors or judges of election, to whom such certificates, poll-books, and tally-sheets are delivered shall, when the question is as to an appropriation by the entire county, constitute a board of canvassers, who shall canvass and estimate the certificate, poll-book, and tally-sheet returned by each member of said board; for which they shall assemble, at the court house of such county, on the Thursday next succeeding the day of such elections, between the hours of ten o'clock A. M., and six o'clock P. M., but when the question is as to an appropriation by a particular township having more than one election precinct, then the inspectors and judges thereof or any two of them, shall constitute the board of canvassers, and shall meet at the time and place aforesaid, and perform the duties aforesaid. (R. S. 1897, 5542; R. S. 1894, 5383; R. S. 1881, 4083.)

Sec. 261. OFFICERS OF BOARD OF CANVASSERS. 8. The members of the Board of Canvassers who shall assemble at such time and place shall select one of their number chairman, and the County Auditor shall act as their clerk. (R. S. 1897, 5543; R. S. 1894, 5384; R. S. 1881, 4084.)

Sec. 262. STATEMENT OF VOTE. 9. Such Board, when organized, shall carefully compare and examine the papers, and shall prepare and sign a statement of the whole number of votes cast, and the number for such appropriation to the railroad company and the number against it; which statement shall be filed with said Auditor, who shall record the same at full length in the records of the Board of Commissioners of said county, and carefully file in his office the certificates, poll-books, and tally-sheets aforesaid. (R. S. 1897, 5544; R. S. 1894, 5385; R. S. 1881, 4085.)

Sec. 263. DUTY OF COUNTY BOARD. 10. If a majority of the votes cast shall be in favor of such railroad appropriation, the Board of County Commissioners, at the ensuing regular session, shall grant the prayer of said petition, and shall levy a special tax, for the amount specified in said petition, upon the real and personal property in the county or township, as the case may be, liable to taxation for State and county purposes; which tax shall be collected in all respects as other taxes are collected for State and county purposes: Provided, That no county, township, or city shall be authorized by the provisions of this Act to place upon the tax-duplicate, for such railroad purposes, to exceed one per centum upon the taxables of such county, township,

or city (as such taxables shall appear on the tax-duplicates of such county or city) in any one year. (R. S. 1897, 5545; R. S. 1894, 5386; R. S. 1881, 4086.)

Sec. 264. DUTY OF COUNTY BOARD SUBSCRIBING. 11. Such Board of County Commissioners shall, after the assessment herein provided for, subscribe to the capital-stock of such railroad company to the amount asked for in said petition aforesaid, in the name of such county or township, as the case may be, and pay therefor, from time to time, as the money assessed as aforesaid shall have been collected: Provided, That such subscription to the capital-stock of such railroad company shall be made, subject to such conditions as may be set forth and asked for in said petition, to best secure the benefits thereof to such county or township, as the case may be. (R. S. 1897, 5546; R.S. 1894, 5387; R. S. 1881, 4087.)

Sec. 265. PETITION TO CITY. 12. Whenever a petition shall be presented to the City Council of any city incorporated under the general laws of this State, and situate in any county bordering on the State line, or any river forming the State boundary, signed by a majority of the resident freeholders of such city, asking said Council to make an appropriation of money (stating the amount), to aid a railroad company therein named, and coming under the provisions of the first section of this Act (Sec. 254), by subscribing to the capital-stock of such company, to aid in constructing a railroad from an adjoining State to such city, or to the State line, or to a river forming the State boundary bordering the county in which such city is situated, or to connect with any other railroad in said city or near the corporate limits of such city, it shall be the duty of such Council, after being satisfied that such petition has been properly signed by the requisite number of resident freeholders of such city, to cause the same to be entered at full length upon its records. (R. S. 1897, 5547; R. S. 1894, 5388; R. S. 1881, 4088.)

Sec. 266. DUTY OF COUNCIL. 13. Such City Council shall take said petition under advisement, and, thereupon, make an order directing the Mayor of such city to subscribe to the capital-stock of such railroad company, in the proper corporate name of such city, the amount specified in such petition for the purposes aforesaid; which subscription shall be made upon and subject to such provisions and conditions as a majority of such City Council and Mayor may deem necessary to protect the best interests of such city. (R. S. 1897, 5548; R. S. 1894, 5389; R. S. 1881, 4089.)

Sec. 267. BONDS. 14. It shall be the duty of such City Council to issue the bonds of such city (as provided for in section five of this Act—Sec. 258), to an amount sufficient to liquidate said subscription to the capital-stock of such railroad company aforesaid, and to pay the same, or the proceeds thereof, in such liquidation, from time to time, as the work upon such railroad progresses or the conditions of such subscription to the capital-stock thereof require. (R. S. 1897, 5549; R. S. 1894, 5390; R. S. 1881, 4090.)

Sec. 268. INTEREST—SINKING-FUND. 15. Such City Council shall provide for the payment of the annual interest of such bonds, and also provide a sinking-fund for the payment of the principal thereof at maturity, by levying a special tax therefor upon the real and personal property in such city subject to taxation for State, county, and municipal purposes; which tax shall be placed upon the tax-duplicate of such city, and collected as other taxes are collected for city purposes. (R. S. 1897, 5550; R. S. 1894, 5391; R. S. 1881, 4091.)

Sec. 269. PAYMENT OF AID. 16. After the money authorized by this Act to be subscribed and appropriated shall have been levied and collected, or city bonds issued as aforesaid, the railroad company for whose aid the same shall have been levied and collected, or city bonds so issued, having fully done, performed, and complied with all the provisions and conditions upon which such subscriptions were made and connected therewith in good faith, shall be entitled to demand and have a full compliance with the terms of such subscriptions upon the part of such counties, townships, or cities, as the case may be, to the full intent and meaning of this Act; and such railroad company or any one of said petitioners, or any taxpayer of such county, township, or city, as the case may be, may compel the same to be done by mandate against such county, township, or city. (R. S. 1897, 5551; R. S. 1894, 5392; R. S. 1881, 4092.)

Sec. 270. ELECTION EXPENSES. 17. The officers conducting the elections provided for in this Act shall be allowed the same pay as is allowed for like services in general elections. Should the election result in favor of a railroad appropriation, the expenses of the election, after being paid by the county, township, or city, as the case may be, shall be charged against the railroad company benefited, and deducted out of the first moneys collected by virtue of the appropriation. (R. S. 1897, 5552; R. S. 1894, 5393; R. S. 1881, 4093.)

[1877, p. 111. Approved March 5, 1877. In force July 2, 1877.]

Sec. 271. ADDITIONAL TIME. 1. Any railroad company now organized under the laws of the State of Indiana, to which any township has made or may hereafter make an appropriation of money, to aid such company in constructing a railroad in or through such township, by taking stock in or donating money to such company, shall have five years from the passage of this Act in which to complete such railroad for use, and, when so completed, such company shall be entitled to such appropriation: Provided, That this Act shall not be so construed as to entitle any company to such appropriation that has failed to commence work upon its road within two years from the levy-failed to commence work upon its road within two years from the levying of the special tax for such purpose. (R. S. 1897, 5553; R. S. 1894, 5394; R. S. 1881, 4094.)

ARTICLE 6 — RIGHTS-OF-WAY.

SEC.

272. Use of canal—Consent—Proviso.

273. Hydraulic power preserved.

SEC.

274. Use of county road.

275. Right-of-way by cities and towns.

[1865 S., p. 116. Approved and in force November 16, 1865.]

Sec. 272. USE OF CANAL—CONSENT—PROVISO. 1. It shall be lawful for any railroad company heretofore or hereafter organized under any general or special law of this State, with the consent of any canal company of the State, to occupy and use the real and personal property of such canal company and its appurtenances, and any part thereof, its right-of-way and privileges, or any part thereof, for railroad purposes, on such terms and conditions, and for such compensation, as shall be mutually agreed on between such railroad and canal company; and it shall be lawful for such canal company, for the purpose of consummating such arrangement, to grant, lease, or convey to such railroad company said real and personal property and appurtenances; right-of-way and privileges, to be occupied and used for railroad purposes: Provided, however, That no grant, lease, or conveyance shall be made by any canal company that shall authorize or suffer its hydraulic power now in use to be impaired; And Provided, further, That this Act shall not apply to any lands now in the hands of trustees, and which have been taken or in any way held as security for the public debt; And Provided, further, That nothing in this Act shall be held or construed to make or render the State

liable for any such canal company; And Provided, further, That any railroad company with which a canal company may contract as afore-said, shall, for the protection of the hydraulic power of the canal, maintain the embankments thereof, so far as such railroad company occupies such embankments; And Provided, further, That no such grant, lease or conveyance shall be made by any such canal company of such feeder-dams and feeders and right-of-way for water to run in such canal for hydraulic purposes as supply present lessees of water-power; nor of the real estate now leased to lessees of water-power, but all of which shall be retained and controlled by the canal board of directors; And Provided, further, That no such grant, lease, or conveyance shall be made by any canal company, by which the hydraulic power now in use shall be impaired, nor in any way impair the contracts now existing between the lessees of water-power and such canal company. (R. S. 1897, 5554; R. S. 1894, 5395; R. S. 1881, 4095.)

Sec. 273. HYDRAULIC POWER PRESERVED. 2. If any canal company shall neglect or refuse to keep up the present hydraulic power thereof, the lessees of the same, or any portion of them, may organize a company or companies for the maintenance thereof, and for this purpose shall be invested with all the rights of the original company to control such canal feeders and dams, or parts thereof, collect the water-rents, make repairs, lease the said water-power and renew the present leases thereof: Provided, The said company or companies in no way interfere with the right-of-way herein authorized as the property of such railroads. (R. S. 1897, 5555; R. S. 1894, 5396; R. S. 1881, 4096.)

[1875 S., p. 69. Approved and in force March 13, 1875.]

Sec. 274. USE OF COUNTY ROAD. 1. When the owners of three-fourths of the real estate bordering on a county road which connects a city of more than forty thousand inhabitants with any suburban town situated in the same county have petitioned, or shall hereafter petition, the Board of County Commissioners of such county to grant a railroad company, duly organized under the laws of the State, the right-of-way along the line of any part of said county road, for the purpose of connecting such city with such suburb, by a line of railroad, said Commissioners shall be empowered to grant such right-of-way to such railroad company, subject to all the rights of adjoining proprietors who shall not sign such petition. (R. S. 1897, 5556; R. S. 1894, 5397; R. S. 1881, 4097.)

[1865, p. 51. Approved and in force March 6, 1865.]

Sec. 275. RIGHT-OF-WAY BY CITIES AND TOWNS. 1. The Trustees of any town or the Common Council of any city may grant to any person, corporation, or company the right and privilege to locate and run a railroad track through said town or city, on the streets or alleys thereof, for the purpose of conveying coal into or through said town or city, under such restrictions and regulations as the Trustees or Common Council may require. (R. S. 1897, 5557; R. S. 1894, 5398; R. S. 1881, 4098.)

ARTICLE 7—MISCELLANEOUS.

SEC.

- 276. Vendor's lien on sale of rolling stock.
- 277. Conditional sale.
- 278. Sale valid.
- 279. Prior contracts.
- 280. Acknowledgments.
- 281. Weeds and thistles, destruction.

SEC.

- 282. Suit for failure to cut weeds.
- 283. Liability of railroads or corporations.
- 284. Damages commensurate with injury.
- 285. Citizen of this State injured in another State.
- 286. Contracts for release of liability.

[1889, p. 323. Approved and in force March 9, 1889.]

Sec. 276. VENDOR'S LIEN ON SALE OF ROLLING STOCK. 1. In any written contract of or for the sale of railroad equipment or rolling-stock deliverable immediately or subsequently at stipulated periods, by the terms of which the purchase money, in whole or in part, is to be paid in the future, it may be agreed that the title to the property sold or contracted to be sold shall not pass to or vest in the vendee until the purchase money shall have been fully paid, or that the vendor shall have and retain a lien thereon for the unpaid purchase money, notwithstanding delivery thereof to and possession by the vendee: Provided, That the terms of credit for the payment of the purchase money shall not exceed ten years from the execution of the contract. (R. S. 1897, 5558; R. S. 1894, 5401.)

Sec. 277. CONDITIONAL SALE. 2. In any written contract for the leasing or renting of railroad equipment or rolling-stock it shall be lawful to stipulate for a conditioned sale thereof at the termination of such lease, and to stipulate that the rental received may, as paid or when paid in full, be applied and treated as purchase money, and that the title to such property shall not vest in such lessee or vendee until the purchase money shall have been paid in full, notwithstanding delivery to and possession by such lessee or vendee, subject, however, to the proviso contained in section one of this Act. (R. S. 1897, 5559; R. S. 1894, 5402.)

[1893, p. 297. Approved March 4, 1893. In force May 18, 1893.]

Sec. 278. SALE VALID. 3. Every such contract specified in sections one and two shall be good, valid and effectual, both in law and equity, against all purchasers and creditors: Provided, First, the same shall be acknowledged by the vendees or lessees before some officer authorized to take acknowledgments of deeds; second, such instrument shall be recorded within sixty (60) days after its execution in the office of the Secretary of State in Indianapolis, Indiana, and when so recorded in the office of the Secretary of State, shall be valid and binding so far as all property covered by the same is concerned, no matter in what part or portion of the State the same may be at any time; third, each locomotive, engine or car so sold or contracted to be sold or leased as aforesaid, shall have the name of the vender or lessor, or the assignee of such vender or lessor plainly placed or marked on each side thereof, or be otherwise marked so as to indicate the ownership thereof, and when the vender is a citizen of Indiana then, in addition to the recording hereinbefore required, the vender shall record in the county where the vender lives. (R. S. 1897, 5560; R. S. 1894, 5403.)

[1889, p. 323. Approved and in force March 9, 1889.]

Sec. 279. PRIOR CONTRACTS. 4. This Act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first or second section, but the same shall be and remain valid, if already acknowledged and recorded as herein provided, or if acknowledged and recorded as herein provided within six months from the passage of this Act. (R. S. 1897, 5561; R. S. 1894, 5404.)

Sec. 280. ACKNOWLEDGMENTS. 5. The acknowledgments of such contracts may be made in the form required as to conveyances of real estate. (R. S. 1897, 5562; R. S. 1894, 5405.)

[1889, p. 146. Approved March 6, 1889. In force May 10, 1889.]

Sec. 281. WEEDS AND THISTLES, DESTRUCTION. 1. All railroad corporations doing business in this State shall, between the first day of July and the twentieth day of August in each year, cause all thistles, burrs, docks and other noxious weeds growing on lands occupied by them in any city, village or township of this State, to be cut down and destroyed. (R. S. 1897, 5563; R. S. 1894, 5399.)

Sec. 282. **SUIT FOR FAILURE TO CUT WEEDS.** 2. In case any railroad company shall refuse or neglect to comply with the requirements specified in the first section of this Act, such company shall be liable in a penalty of twenty-five dollars, to be prosecuted for in an action of debt by any person feeling himself aggrieved. Said suit may be brought before any Justice of the Peace in the county, who shall require of the complainant surety to pay costs in case he fails to maintain his action. Summons may be served on any agent or officer of the company. (R. S. 1897, 5564; R. S. 1894, 5400.)

[1893, p. 294. Approved and in force March 4, 1893.]

Sec. 283. **LIABILITY OF RAILROADS OR CORPORATIONS.**

1. Every railroad or other corporation, except municipal, operating in this State, shall be liable in damages for personal injury suffered by any employe while in its service, the employe so injured being in the exercise of due care and diligence, in the following cases:

First. When such injury is suffered by reason of any defect in the condition of ways, works, plants, tools and machinery connected with or in use in the business of such corporation, when such defect was the result of negligence on the part of the corporation, or some person entrusted by it with the duty of keeping such way, works, plant, tools or machinery in proper condition.

Second. Where such injury resulted from the negligence of any person in the service of such corporation, to whose order or direction the injured employe at the time of the injury was bound to conform, and did conform.

Third. Where such injury resulted from the act or omission of any person done or made in obedience to any rule, regulation or by-law of such corporation, or in obedience to the particular instructions given by any person delegated with the authority of the corporation in that behalf.

Fourth. Where such injury was caused by the negligence of any person in the service of such corporation who has charge of any signal, telegraph office, switch yard, shop, round-house, locomotive engine, or train upon a railway, or where such injury was caused by the negligence of any person, co-employe, or fellow-servant engaged in the same common service in any of the several departments of the service of any such corporation, the said person, co-employe, or fellow-servant, at the time acting in the place, and performing the duty of the corporation in that behalf, and the person so injured, obeying or conforming to the order of some superior at the time of such injury,

having authority to direct; but nothing herein shall be construed to abridge the liability of the corporation under existing laws. (R. S. 1897, 5565.)

1. Section 2 is repealed. Acts 1895, p. 148.

Sec. 284. DAMAGES COMMENSURATE WITH INJURY. 3. The damages recoverable under this Act shall be commensurate with the injury sustained unless death results from such injury, when, in such case, the action shall survive and be governed in all respects by the law now in force as to such actions: Provided, That where any such person recovers a judgment against a railroad or other corporation, and such corporation takes an appeal, and, pending such appeal, the injured person dies, and the judgment rendered in the Court below be thereafter reversed, the right of action of such person shall survive to his legal representative. (R. S. 1897, 5566.)

Sec. 285. CITIZENS OF THIS STATE INJURED IN ANOTHER STATE. 4. In case any railroad corporation which owns or operates a line extending into or through the State of Indiana and into or through another or other States, and a person in the employ of such corporation, a citizen of this State, shall be injured as provided in this Act, in any other State where such railroad is owned or operated, and a suit for such injury shall be brought in any of the Courts of this State, it shall not be competent for such corporation to plead or prove the decisions or statutes of the State where such person shall have been injured as a defense to the action brought in this State. (R. S. 1897, 5567.)

Sec. 286. CONTRACTS FOR RELEASE OF LIABILITY. 5. All contracts made by railroads or other corporations with their employes, or rules or regulations adopted by any corporation releasing or relieving it from liability to any employe having a right of action under the provisions of this Act are hereby declared null and void. The provisions of this Act, however, shall not apply to any injuries sustained before it takes effect, nor shall it affect in any manner any suit or legal proceedings pending at the time it takes effect. (R. S. 1897, 5568.)

ARTICLE 8.—CRIMES RELATING TO RAILROADS.

SEC.

- 287. Transportation of animals.
- 288. Bringing in Texas cattle.
- 289. Carrying game beyond State.
- 290. Suffering growth of Canada thistles.
- 291. Exacting contribution from employe.
- 292. Penalty.
- 293. Climbing on cars in motion.
- 294. Obstructing highway with cars.
- 295. Running passenger cars without tools.

SEC.

- 296. Engineer failing to stop at railroad crossing.
- 297. Deceiving railroad engineer.
- 298. Untimely crossing of railroad track.
- 299. Stopping trains on crossing.
- 300. Obstructing highway.
- 301. Locking passenger cars.
- 302. Failing to give signals.

[1889, p. 375. Approved March 11, 1889. In force May 10, 1889.]

Sec. 287. RAILROAD TRANSPORTATION. 4. No railroad company in the carrying or transporting of animals shall permit the same to be confined in cars for a longer period than twenty-eight consecutive hours without unloading the same for rest, water and feeding, for a period of at least five consecutive hours, unless prevented from so unloading by storm or other accidental causes. In estimating such confinement, the time during which the animals have been confined without rest on connecting roads from which they are received shall be included, it being the intention of this Act to prevent their continuous confinement beyond the period of twenty-eight hours, except on contingencies, as hereinbefore stated. Animals so unloaded shall be properly fed, watered and sheltered during such rest by the owner or person having the custody thereof; or in case of his default in so doing, then the railroad company transporting the same, at the expense of said owner or person in custody thereof; and said company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for any detention of such animals authorized by this Act. Any company, owner or custodian of such animals who shall fail to comply with the provisions of this section shall, for each and every such offense, be liable for and forfeit and pay a penalty of not less than one hundred nor more than five hundred dollars: Provided, however, That when animals shall be carried in cars in which they can and do have the proper food, water, space and opportunity for rest the foregoing provisions in regard to their being unloaded shall not apply. (R. S. 1897, 2228; R. S. 1894, 2200.)

[1881 S., p. 174. Approved April 14, 1881. In force September 19, 1881.]

Sec. 288. BRINGING IN TEXAS CATTLE. 195. Whoever drives or in any manner brings Texas or Cherokee Cattle into this State, at any time before the first day of October and after the first

day of April in any year; and whoever purchases such cattle so driven or brought,—shall be fined not more than one thousand dollars nor less than one hundred dollars, to which may be added imprisonment in the county jail not more than one year. But nothing in this section shall be so construed as to prevent the transit of any cattle through this State, on the railroads, to other States; nor shall the provisions of this section apply to any cattle that shall have been, during all the previous winter, north of the thirty-eighth degree of latitude; and in all prosecutions under this section, the legal presumption shall be that such cattle had not been, during all the previous winter, north of the thirty-eighth parallel of latitude. (R. S. 1897, 2235; R. S. 1894, 2207; R. S. 1881, 2104.)

[1881 S., p. 174. Approved April 14, 1881. In force September 19, 1881.]

Sec. 289. CARRYING GAME BEYOND STATE. 207. It shall be unlawful for any railroad company, express company, or other common carrier, or officers, agents, or servants, or any other person or persons, to transport, carry, or take beyond the limits of this State, or to receive for the purpose of transporting, carrying, or taking beyond the limits of this State, any deer, buck, doe, or fawn, any quail, pheasant, wild duck, grouse, prairie chicken, or woodcock; and any such railroad company, express company, or common carrier, their agents, officers, or servants, or any other person or persons, violating the provisions of this section, shall be fined in any sum not more than one hundred dollars nor less than ten dollars for each offense so committed. (R. S. 1897, 2255; R. S. 1894, 2224; R. S. 1881, 2115.)

[1885 p. 115. Approved and in force April 2, 1885.]

Sec. 290. SUFFERING GROWTH OF CANADA THISTLES. 213. Any person or persons who shall knowingly allow Canada thistles to grow and mature upon his, her or their land, or upon any land which they have under their charge, and every Supervisor of roads who shall knowingly allow Canada thistles to grow and mature in any public highway over which said Supervisor has supervision, and every roadmaster of any railroad who shall knowingly allow Canada thistles to grow and mature on the lands held, owned or used by said company as depot or station grounds, or as a right of way for that part of the road so owned, held or used by such railroad company over which such roadmaster has supervision, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined, for the first offense in any sum not less than five nor more than twenty

dollars, and for the second and each subsequent offense shall, upon conviction thereof, be fined in any sum not less than ten nor more than fifty dollars. (R. S. 1897, 2266; R. S. 1894, 2234.)

[1885, p. 123. Approved April 2, 1885. In force July 18, 1885.]

Sec. 291. EXACTING CONTRIBUTION FROM EMPLOYEE.

1. It shall be unlawful for any railroad company or corporation operating railroads in Indiana to exact from its employe, without first obtaining written consent thereto in each and every instance, any portion of their wages for the maintenance of any hospital, reading-room, library, gymnasium, or restaurant. (R. S. 1897, 2358; R. S. 1894, 2300.)

Sec. 292. PENALTY. 2. Any Paymaster, Auditor, or employe of any company so exacting from its employes such sums of money shall, upon conviction thereof in any Circuit Court having competent jurisdiction, be fined not less than one hundred dollars nor more than five hundred dollars, as the Court may decree. (R. S. 1897, 2359; R. S. 1894, 2301.)

[1881 S., p. 174. Approved April 14, 1881. In force September 19, 1881.]

Sec. 293. CLIMBING ON CARS IN MOTION. 253. Whoever, not being a passenger or employe, either climbs, jumps, or steps upon, swings on, or attaches himself to any locomotive engine or car while the same is in motion or switching upon any part of the track of a railroad within this State, shall be fined in any sum not more than three dollars. (R. S. 1897, 2326; R. S. 1894, 2290; R. S. 1881, 2169.)

[1893, p. 296. Approved March 4, 1893. In force May 18, 1893.]

Sec. 294. OBSTRUCTING HIGHWAY WITH CARS. 254. Whoever, being a conductor or other person having charge of or running a railroad train carrying or used for carrying freight, permits or suffers the same or any car or locomotive engine composing the same to remain standing across any public highway, street, alley or farm crossing, or who, whenever it becomes necessary to stop such train across any public highway, street, alley or farm crossing, fails to leave a space of sixty feet across such public highway, street, alley or farm crossing, shall be fined not more than twenty dollars nor less than three dollars. (R. S. 1897, 2327; R. S. 1894, 2291.)

[1881, p. 174. Approved April 14, 1881. In force September 19, 1881.]

Sec. 295. RUNNING PASSENGER CARS WITHOUT TOOLS.

255. Whoever shall, either as conductor or engineer, assist in the running of any passenger cars over any railroad in this State, which have not been provided with an ax, sledge-hammer, saw, and bucket, placed in some convenient and conspicuous place in each passenger car, shall be fined not more than one hundred dollars nor less than ten dollars; and in such case the railroad company employing such officer or employe shall be liable to the same penalties as such employe. (R. S. 1897, 2328; R. S. 1894, 2292; R. S. 1881, 2171.)

Sec. 296. ENGINEER FAILING TO STOP AT RAILROAD CROSSING.

256. Whoever, being the engineer of any locomotive running upon any railroad track upon or over which passengers are or may be transported, runs his locomotive across or upon the track of any other railroad upon or over which passengers are or may be transported, without first coming to a full stop before crossing such other track, and without first ascertaining if there is no other train or locomotive in sight, approaching and about to pass over such other track; or who runs, or permits his locomotive to cross such track when a locomotive is in sight, approaching and about to pass upon and over such crossing on such other track,—shall, on conviction thereof, be fined in any sum not more than one thousand dollars nor less than one hundred dollars, and in addition thereto shall be imprisoned in the county jail for any period not more than one year nor less than three months; and if any person shall be injured or killed by reason of such crossing, such engineer so violating the provision of this section shall be imprisoned in the State prison for any period not more than fourteen years nor less than two years. (R. S. 1897, 2329; R. S. 1894, 2293; R. S. 1881, 2172.)

Sec. 297. DECEIVING RAILROAD ENGINEER.

257. Whoever shall falsely report to the engineer of any locomotive running upon any railroad track upon and over which passengers are or may be transported, that there is no train or locomotive upon the track of any other railroad, in sight and approaching the place where such roads cross, or upon such crossing; or whoever, being the conductor of any train, orders and directs the engineer to violate the provisions of the preceding section; or whoever, being a brakeman of any train of cars, by reason of his gross carelessness or willful neglect of duty, causes such train or locomotive to run across or upon such crossing,—shall

be fined in any sum not more than one thousand dollars nor less than one hundred dollars, and imprisoned in the county jail not more than one year nor less than three months; and if any person shall be killed or injured by reason of such crossing, he shall be imprisoned in the State prison not more than fourteen years nor less than two years. (R. S. 1897, 2330; R. S. 1894, 2294; R. S. 1881, 2173.)

Sec. 298. UNTIMELY CROSSING OF RAILROAD TRACK. 258. Whoever, being an engineer, permits his locomotive to run upon or across the track of any other railroad before the locomotive and train shall, coming upon the other track, have passed over such crossing, if the locomotive or train on the other track shall arrive at the crossing first, shall be fined not more than one thousand dollars nor less than one hundred dollars, and imprisoned in the county jail not more than one year nor less than three months; and if any person be killed or injured by reason of such crossing, he shall be imprisoned in the State prison not more than fourteen years nor less than two years. (R. S. 1897, 2331; R. S. 1894, 2295; R. S. 1881, 2174.)

Sec. 299. STOPPING TRAIN ON CROSSING. 259. Whoever, being the engineer, conductor, or other person having charge of any railroad train or locomotive, permits or suffers the same to be stopped or remain stationary upon any railroad crossing, unless the same is done by united agreement and under specific regulations adopted by the directors of such crossing railroads, shall be fined not more than one thousand dollars nor less than one hundred dollars, and imprisoned in the county jail not more than one year nor less than three months; and if any person be injured or killed by reason of such crossing, he shall be imprisoned in the State prison not more than fourteen years nor less than two years. (R. S. 1897, 2332; R. S. 1894, 2296; R. S. 1881, 2175.)

Sec. 300. OBSTRUCTING HIGHWAY. 260. Whoever, being the conductor of any passenger train, allows the same to remain standing across any public highway or street, to the hindrance of travel, for a longer time than fifteen minutes, shall be fined in any sum not more than fifty dollars nor less than five dollars. (R. S. 1897, 2333; R. S. 1894, 2297; R. S. 1881, 2176.)

Sec. 301. LOCKING PASSENGER CARS. 261. Whoever, being the superintendent, officer, agent, or employe of any railroad company, suffers or permits any car or cars on any railroad in this State,

containing any passenger, to be locked while the same is running or standing on any railroad in this State; or whoever locks or fastens the door or doors of any car containing any passenger, so that said door cannot be easily opened by such passenger; or whoever directs or orders the locking or fastening of any such car door,—shall be fined not more than five hundred dollars nor less than five dollars. (R. S. 1897, 2334; R. S. 1894, 2298; R. S. 1881, 2177.)

Sec. 302. FAILING TO GIVE SIGNALS. 262. Whoever, having charge of a locomotive engine upon any railroad, fails or neglects when such engine is approaching any road crossing to sound the engine whistle at a distance of not more than one hundred nor less than eighty rods from such crossing, shall be fined not more than fifty dollars nor less than ten dollars; and if any person be injured or killed by reason of such failure or neglect, he shall be imprisoned in the State prison not more than fourteen years nor less than two years. But nothing herein contained shall be so construed as to interfere with any ordinance or by-law that has been or may be passed by any city or town, regulating the management or running of engines or trains within such city or town. (R. S. 1897, 2335; R. S. 1894, 2299; R. S. 1881, 2178.)

NOTE.—Other crimes pertaining to a railroad is willfully burning a railroad bridge (R. S. 1897, 2024; R. S. 1894, 2000; R. S. 1881, 1927); burglary in cars, depots and freight houses (R. S. 1897, 2026; R. S. 1894, 2002; R. S. 1881, 1929); burning cars (R. S. 1897, 2024; R. S. 1894, 2000; R. S. 1881, 1927); unlawfully running hand car (R. S. 1897, 2063; R. S. 1894, 2038; R. S. 1881, 1959); disinfecting hog cars (R. S. 1897, 2917; shooting at cars (R. S. 1897, 2061 and 2062; R. S. 1894, 2036, 2037; R. S. 1881, 1957, 1958); embezzlement of conductor or ticket agent (R. S. 1897, 2048; R. S. 1894, 2024; R. S. 1881, 1946); breaking into depot in daytime (R. S. 1897, 2027, 2028; R. S. 1894, 2003, 2004; R. S. 1881, 1930, 1931); exploding dynamite near other's premises (R. S. 1897, 2351; R. S. 1894, 2307; buying vote at election to aid in building (R. S. 1897, 2387; R. S. 1894, 2347, R. S. 1881, 2199); injuring embankment (R. S. 1897, 2068; R. S. 1894, 2043; R. S. 1881, 1964); discharging employe unlawfully (R. S. 1897, 2357; R. S. 1894, 2302; duty as to live stock sanitary commission (R. S. 1897, 2943; unlawfully changing switch (R. S. 1897, 2069; R. S. 1894, 2039; R. S. 1881, 1960); obstructing track unlawfully (R. S. 1897, 2064; R. S. 1894, 2039; R. S. 1881, 1960).

CHAPTER 3.

RAILROAD TAXATION.

SEC.	SEC.
303. Listing.	315. Entry of valuation.
304. Sworn statement.	316. Meetings of Board of Tax Commissioners—Powers—Expenses.
305. Right-of-way.	317. County Auditor furnishes abstract of assessments.
306. Apportionment of value.	318. Classification—Equalization.
307. Rolling stock.	319. Equalization of counties.
308. Personalty.	320. Railroads, how assessed.
309. Realty.	321. Tabulating results.
310. Inventory.	322. Rates certified to State Auditor.
311. Auditor's return to Assessor.	323. Rates extended—Duties of County Auditors.
312. Statement.	
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314. Auditor of State lays before State Board.	

[1891, p. 199. Approved and in force March 6, 1891.]

Sec. 303. LISTING. 76. Every person, company, or corporation owning, managing, operating or constructing a railroad in this State shall cause all taxable property, not including property specifically taxed, to be listed, with reference to its amount, kind and value, on the first day of April of the year in which it is listed. (R. S. 1897, 9024; R. S. 1894, 8494.) See sections 389 to 396.

Sec. 304. SWORN STATEMENT. 77. Between the first day of April and the first day of June of the year eighteen ninety-one, and at the same time in each year thereafter when required by the County Auditor, any person, company or corporation so owning, managing, operating, or constructing a railroad shall make and file with the County Auditor of the respective counties in which the railroad may be located a statement or schedule, verified by the oath of such person, or the President and Secretary of such corporation, showing the property held for right of way, and the length of the main and all side and second tracks and turnouts in such county, and in each city or town in the county through, or into which the road may run, and describing each tract of land, other than a city or town lot, through which the road may run, in accordance with the United States, or other surveys, giving the width and length of the strip of land held in each tract and the number of acres thereof. They shall also state

the value of improvements and stations located on the right of way. New companies shall make such statement in April next after the location of their roads. When such statement shall have been once made, it shall not be necessary to report the description as hereinbefore required, unless directed so to do by the County Auditor; but the company shall, during the month of April, annually, report the value of such property, by the description set forth in the next section of this Act, and note all additions or changes in such right of way as shall have occurred. (R. S. 1897, 9025; R. S. 1894, 8495.)

Sec. 305. RIGHT OF WAY. 78. Such right of way, including the superstructures, main, side or second track and turnouts, turntable, telegraph poles, wires, instruments and other appliances, and the stations and improvements of the railroad company on such right of way (excepting machinery, stationary engines and other fixtures, which shall be considered personal property) shall be held to be real estate for the purpose of taxation, and denominated "railroad track," and shall be so listed and valued, and shall be described in the assessment thereof as a strip of land extending on each side of such railroad track and embracing the same, together with all the stations and improvements thereon, commencing at a point where such railroad track crosses a boundary line in entering the county, township, city or town, tending to the point where such track crosses the boundary line leaving such county, township or town to the point of termination in the same, as the case may be, containing ——— acres, more or less (inserting name of county, township, city or town, or boundary line of same, and number of acres and length in feet), and when advertised or sold for taxes, no other description shall be necessary to convey a good title to the purchaser. (R. S. 1897, 9026; R. S. 1894, 8496.)

Sec. 306. APPORTIONMENT OF VALUE. 79. The value of "railroad track" shall be listed and taxed in the several counties, townships, cities or towns in the proportion that the length of the main track in such county, township, city or town bears to the whole length of the road in this State, except the value of the side or second track, and all the turnouts and all station houses, depots, machine shops or other buildings belonging to the road, which shall be taxed in the county, township, city or town in which the same are located. (R. S. 1897, 9027; R. S. 1894, 8497.)

Sec. 307. ROLLING STOCK. 80. The movable property belonging to a railroad company shall be held to be personal property,

and denominated, for the purpose of taxation, "rolling stock." Such rolling stock shall be listed and taxed in the several counties, townships, cities or towns in the proportion that the main track used or operated in such county, township, city or town bears to the length of the main track used or operated by such person, company or corporation, whether owned, operated or leased by him or them in whole or in part. (R. S. 1897, 9028; R. S. 1894, 8498.)

Sec. 308. PERSONALITY. 81. All personal property of any railroad, except that specifically taxed and including the tools and materials for repairs, machinery, fixtures and stationary engines, shall be listed and assessed in the county, township, city or town, wherever the same may be, on the first day of April of each year. (R. S. 1897, 9029; R. S. 1894, 8499.)

Sec. 309. REALTY. 82. All real estate of any railroad company other than that denominated "railroad track," with all the improvements thereon, shall be listed as lands and lots, as the case may be, in the county, township, town or city where the same are located. In describing such real estate wherever a railroad company shall have made or makes and records a plat of any contiguous lots or parcels of land belonging to it, the same may be described as designated on such plat. (R. S. 1897, 9030; R. S. 1894, 8500.)

Sec. 310. INVENTORY. 83. Between the first day of April and the first day of June of each year every person, company or corporation, owning, constructing or operating a railroad in this State shall return to the County Auditor a list or schedule, verified by the oath of such person so owning, constructing or operating, if an individual, or if a company or corporation by the oath of the Superintendent or Secretary of such company or corporation, which shall contain:

First. A full and correct detailed inventory of all the rolling stock belonging to, or leased, hired, used or operated by such company, and which shall distinctly set forth the number of locomotives and tenders of all classes, passenger cars of all classes, sleeping, chair and dining cars, express cars, baggage cars, horse cars, cattle cars, coal cars, platform cars, wrecking cars, freight cars, flat cars, pay cars, hand cars, tank or oil cars, and all other kinds of cars, and the true cash value thereof on the first day of April of the current year shall be set opposite each of them. Such list or schedule shall also set forth the number of miles of main track on which such rolling stock is used in the State of Indiana. For the purpose of taxation such rolling stock leased

or hired from persons or corporations, other than railroad companies, shall be deemed the property of the railroad company leasing the same and for that purpose shall be valued at such proportion of the full value thereof as the time during which the same is used on such railroad during any year bears to the whole year.

Second. Such list shall also contain a full and correct inventory of all the other personal property of such railroad company not specifically taxed, including the tools and materials for repairs, the machinery, fixtures and stationary engines, and such property shall be classified and separated into the particular county, township, cities and towns wherein the same may be on the first day of April, with the true cash value thereof on the first day of April of the current year.

Third. Such list shall also contain an inventory of all the real estate (other than that denominated "railroad track") owned by the said railroad company on the first day of April of the current year. Such property shall also be listed with reference to the amount, kind and value, on the first day of April of the year in which it is listed. (R. S. 1897, 9031; R. S. 1894, 8501.)

Sec. 311. AUDITOR'S RETURN TO ASSESSOR. 84. The County Auditor, as soon as he receives such list, shall return to the proper Assessor a copy of so much of said list as is contained in the second and third specifications thereof; and such property shall be listed and assessed by such Assessor. Such property shall be treated in all respects, in regard to assessment and equalization, the same as other similar property belonging to individuals except that it shall be treated as property belonging to railroads, under the terms "lands," "lots" and "personal property." (R. S. 1897, 9032; R. S. 1894, 8502.)

Sec. 312. STATEMENT. 85. At the same time that the lists or schedules as hereinbefore required to be returned to the County Auditor the person, company or corporation running, operating or constructing any railroad in this State shall under oath of such person, or the Secretary or Superintendent of such company or corporation, return to the Auditor of State sworn statements or schedules, as follows:

First. Of the property denominated "railroad track," giving the length of the main and side or second tracks and turnouts, and showing the proportions in each county and township, and the total in the State.

Second. The rolling stock, whether owned or hired, giving the length of the main track in each county, and the entire length of the road in this State.

Third. Showing the number of ties in track per mile, the weight of iron or steel per yard used in the main and side tracks, what joints or chairs are used in track, the ballasting of road, whether graveled, stone or dirt, the number and quality of buildings or other structures on "railroad tracks," the length of time iron or steel in track has been used, and the length of time the road has been built.

Fourth. A statement or schedule showing:

1st. The amount of capital stock authorized and the number of shares into which such capital stock is divided.

2nd. The amount of capital stock paid up.

3rd. The market value, or if no market value, then the actual value of the shares of stock.

4th. The total amounts of all indebtedness except for current expenses for operating the road.

5th. The total listed valuation of all its tangible property in this State. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the Auditor of State. (R. S. 1897, 9033; R. S. 1894, 8503.)

Sec. 313. NEGLECT—PENALTY. 86. If any person, company or corporation owning, operating, or constructing any railroad shall neglect or refuse to return to the County Auditors the statements or schedules required to be returned to them, the property so to be returned to them and assessed by the Assessors as above specified shall be listed and assessed as other property. In case of failure to make returns to the Auditor of State, as hereinbefore provided, the Auditor of State, with the assistance of the County Auditors and Assessors when he shall require such assistance, shall ascertain the necessary facts and lay the same before the State Board of Tax Commissioners. In case of failure to make such statement, either to the County Auditor or Auditor of State, such corporation, company or person shall forfeit, as a penalty, not less than one thousand dollars nor more than five thousand dollars for each day's omission after the first day of June of each year, to be recovered in any proper form of action in the name of the State of Indiana on the relation of the Attorney-General, and paid into the State Treasury. Such Attorney-General shall conduct such prosecution and be entitled to ten per centum on the amount of judgment so recovered and paid in. (R. S. 1897, 9034; R. S. 1894, 8504.)

Sec. 314. AUDITOR OF STATE LAYS BEFORE STATE TAX BOARD. 87. The Auditor of State shall annually on the meeting

of the State Board of Tax Commissioners lay before said Board the statements and schedules herein required to be returned to him, and said Board shall assess such property in the manner hereinafter provided. (R. S. 1897, 9035; R. S. 1894, 8505.)

Sec. 315. ENTRY OF VALUATIONS. 88. The County Auditor shall enter the railroad property of all kinds as listed for taxation upon the proper tax duplicate, and shall enter the valuation as assessed, corrected and equalized in the manner provided in this Act; and against such assessed, corrected or equalized valuation as the case may require, the County Auditor shall compute and extend all taxes for which said property is liable. And the County Treasurer shall collect the taxes charged against said railroad property, and pay over and account therefor in the same manner as other taxes are collected and accounted for. (R. S. 1897, 9036; R. S. 1894, 8506.)

[1895, p. 74. Approved and in force March 1, 1895.]

Sec. 316. MEETINGS OF BOARD OF TAX COMMISSIONERS—POWERS—EXPENSES. 129. Said State Board of Tax Commissioners shall annually convene in the office of the Auditor of State on the second Monday of July of each year, for the purpose of assessing railroad property—denominated “railroad track,” and improvements thereon, and “rolling stock,” and all property belonging to telegraph, telephone, palace car, sleeping car, drawing room car, dining car, express and fast freight joint stock association companies, co-partnerships and corporations, transacting business in the State of Indiana, and shall devote such time as shall be necessary to make such assessments, not exceeding, however, twenty (20) days. They shall reconvene on the first Monday succeeding said first session for the purpose of hearing appeals and applications for revision of assessments which, by law, they are required or permitted to make, and for the purpose of equalizing the assessment of real estate whenever real estate is to be assessed or equalized, as provided by law. During the years when they are required to equalize real estate, they shall remain in session such length of time as the business may require, not exceeding twenty (20) days, and not exceeding fifteen (15) days in other years. They shall reconvene on the first Tuesday succeeding the expiration of the fifteen (15) or twenty (20) days limitation of their session for hearing appeals and applications for revisions, for the purpose of hearing complaints or applications for change in the assessment made, by the owners of railroad property, and all other persons, partnerships, associations, companies or corporations whose assessments

have been fixed at the first session, in this section provided for, but such session shall not exceed ten (10) days. Before adjourning such first session, said board shall designate in what manner parties desiring to be reheard as to the assessments made, shall apply for relief, and such persons may be heard either upon printed or written petitions with accompanying affidavits and exhibits or upon oral testimony, as the board, at its first session, may order; or the board may, in its descretion, at its third session, permit the hearing of oral or written testimony in case it shall appear to the board that such course will be more satisfactory. The assessment made at the first session of the board shall stand as the assessment by the board unless application is filed with said Auditor of State for a reassessment, or for relief from the original assessment, at least five (5) days before said third session, and the assessment when finally determined by said board shall stand as the final assessment of such person and be certified to the proper official by the Auditor of State. Said board shall organize with the Governor as chairman, and whenever the Governor is absent from a session of the board, they shall elect a member of the board to act as chairman in his absence, and the Deputy Auditor of State, or in his absence, one of the clerks in the office of the Auditor of State, to be designated by him, shall act as secretary of the board. The said State Board of Tax Commissioners is hereby given all the powers given to County Boards of Review. They shall not be bound by any reports or estimates of railroad, real estate or other property as returned to the County Auditors, or to the Auditor of State, or certified to the Auditor of State in connection with appeals, or applications for revision, review or assessment, but shall appraise and assess all property coming before them for assessment, directly or indirectly, at its true cash value as defined by the Act of which this section is amendatory, according to their best knowledge and judgment. They shall have power to send for persons, books and papers, to examine records, hear and question witnesses. The State Board of Tax Commissioners shall have power to issue subpoenas, duces tecum and compel the attendance of witnesses, and the production of such books, papers and records as, in the judgment of the board, is necessary to a full and complete exercise of the powers vested in said board, and to use the same in evidence. It shall have power to subpoena, swear and examine witnesses relative to any matter in controversy before said board, and any member of the board may administer an oath to such witness or witnesses. The Sheriff of the county shall serve any order, subpoena or process of the board and receive such compensation therefor as is now provided by law. The Sheriffs of the several counties of

the State shall serve all process and execute all orders of the board. Any member of the board may administer an oath, touching all matters under investigation. All necessary costs and expenses of said board shall be paid out of the State Treasury upon warrants drawn by the Auditor of State when the same shall have been allowed by the board. (R. S. 1897, 9081.)

[Acts 1891, p. 199. Approved and in force March 6, 1891.]

Sec. 317. COUNTY AUDITOR FURNISHES ABSTRACT OF ASSESSMENTS. 134. For the purpose of properly equalizing the valuation of real property, and railroad property within the State, it shall be the duty of the County Auditors, on or before the 20th day of July of each year, upon the receipt of the assessment books to make out and transmit to the Auditor of State an abstract of the assessment of property, showing the number, value and average value of each class or kind of enumerated property as shown by the assessment, the value of each item of unenumerated property, and the total value of personal property; the value of all land in each civil township, without improvements [the value of all improvements] thereon, and the value of such land with improvements, and in like order all city or town in-lots and out-lots, showing the value of such lots without improvements, the value of improvements and the value of such lots with improvements, the length of the main track or tracks, the length of the side-track or tracks; the number or descriptions, the value and average values of each separate item of railroad property. Such abstract shall be arranged in such manner as to show by civil townships the number of acres, value and average value of improved lands, and in like manner the number of acres, value and average value of unimproved lands, total number of acres, total value and average value per acre of all lands, the number and value and average value of improved town or city lots; the number, value and average value of unimproved town or city lots; the total number of lots, total value and average value of all lots, and the total value of all property, real and personal. Said abstract shall be made out on the blanks, which it shall be the duty of the Auditor of State to furnish the County Auditor for that purpose. The value to be given in said abstract shall be assessed valuation, except in the case of railroad property, denominated railroad track and rolling stock, the value of which shall be given as returned by the railroad company to the County Auditors. The County Auditor shall, at the same time, and accompanying said abstract, furnish a detailed statement of the railroad property, denominated railroad track and rolling stock, reported by each road located in or through

their counties. If there are any roads so located that have not made their report, as required by this Act, the County Auditors shall report the facts, giving the name of such railroad, and in case of the failure on the part of any County Auditor to furnish the proper returns of the assessment of his county to the Auditor of State prior to or during the meeting of the State Board of Tax Commissioners in each year, said board may by order authorize the Auditor of State to equalize the assessment of such county when full returns have been received by him. (R. S. 1897, 9086; R. S. 1894, 8552.)

Sec. 318. CLASSIFICATION—EQUALIZATION. 135. Said Board, in equalizing the valuation of property, as listed and assessed in the different counties, shall consider the following classes of property separately, viz.: Railroad property, lands, and town and city lots, and upon such consideration determine such rates of addition to or deduction from the listed or assessed valuation of each of said classes of property in each county, or to or from the aggregate assessed value of each of said classes in the State, as may be deemed by the board to be equitable and just—such rates being in all cases even, and not fractional, and such rates as finally determined by said board shall not be combined. (R. S. 1897, 9087; R. S. 1894, 8553.)

Sec. 319. EQUALIZATION OF COUNTIES. 136. Counties shall be equalized by adding to the aggregate value of the lands, town and city lots, in every county in which said board may believe the valuation to be too low, such rate per centum as will raise the same to its proper proportionate value, and by deducting from the aggregate assessed value thereof, in every county in which said board may believe the valuation to be too high, such per centum as will reduce the same to its proper value, as defined in this Act. (R. S. 1897, 9088; R. S. 1894, 8554.)

Sec. 320. RAILROADS, HOW ASSESSED. 137. Said Board shall also assess the railroad property, denominated in this Act as "railroad track" and "rolling stock," at its true cash value, and said board is hereby given the power and authority by committee or otherwise, to examine persons or papers. The amounts so determined and assessed shall be certified by the Auditor of State to the County Auditors of the proper counties. The County Auditor shall, in like manner, distribute the value so certified to him by the Auditor of State to the several townships, cities and towns in his county entitled to a proportionate value of such railroad track and rolling stock; and said Auditor shall compute and extend taxes against such value the same

as against other property in such townships, cities and towns. (R. S. 1897, 9089; R. S. 1894, 8555.)

Sec. 321. TABULATING RESULTS. 138. When said Board shall have separately considered the several classes of property, as hereinbefore required, the result shall be combined into one table and the same shall be examined, compared and perfected in such manner as said board shall deem best to accomplish a just equalization of assessment throughout the State, preserving, however, the principle of separate rates for each class of property. (R. S. 1897, 9090; R. S. 1894, 8556.)

Sec. 322. RATES CERTIFIED TO STATE AUDITOR. 139. When said board shall have completed its assessments, and its equalization of assessments, for any year, it shall certify to the Auditor of State the rates finally determined by said board to be added [to] or deducted from the listed or assessed valuation of each class of property in the several counties, and also the amounts assessed by said board; and it shall be the duty of said Auditor, under his seal of office, to report the action of the board to the several County Auditors immediately after the adjournment of said board. (R. S. 1897, 9091; R. S. 1894, 8557.)

Sec. 323. RATES EXTENDED—DUTIES OF COUNTY AUDITORS. 140. All rates for taxes provided for by law shall be computed and extended by each County Auditor on the Assessor's valuation of property, as equalized by the County Board of Review and State Board of Tax Commissioners, except as otherwise provided by law. (R. S. 1897, 9092; R. S. 1894, 8558.)

PART II.

CHAPTER 4.

STREET RAILWAY COMPANIES.

ART.

1. *In cities and towns.*
2. *Extension beyond city or town.*

ART.

3. *General provisions.*

ARTICLE 1—IN CITIES AND TOWNS.

SEC.

324. How formed.
325. When incorporated.
326. Powers.
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328. Construction of track.
329. Power to borrow money.
330. Directors and officers.
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SEC.

333. Penalty for overcharge.
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335. Stock transferable.
336. Amendment or repeal.
337. Consent of Common Council.
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339. Filing resolution for increase.
340. Evidence.

[1861 S., p. 75. Approved June 4, 1861. In force September 7, 1861.]

Sec. 324. HOW FORMED. 1. Any number of persons, not less than five, being subscribers to the stock of any contemplated street or horse railroad company may be formed into a corporation for the purpose of constructing, owning, and maintaining street or horse railroads, switches, or side-tracks upon and through the streets of the cities or towns within this State, by complying with the following requirements: Whenever stock to the amount of at least ten thousand dollars shall have been subscribed, the subscribers to such stock shall elect directors for such company from their own number, and shall severally subscribe articles of association, in which shall be set forth

the name of the corporation, the amount of capital-stock of the company, the number of shares of which said stock shall consist, the number of directors, the names to manage the affairs of the company, and the city or town in which it is proposed to construct such road. (R. S. 1897, 5613; R. S. 1894, 5450; R. S. 1881, 4143.)

Sec. 325. WHEN INCORPORATED. 2. The articles of association formed in pursuance of the provisions of the preceding section shall be filed in the office of the Secretary of State; and, thereupon, the persons who have subscribed the same, and all persons who shall become stockholders in said company, and their successors, shall be a body politic and corporate in perpetuity, by the name stated in the articles of association, and shall be capable of suing and being sued, and may have a common seal, the same to alter at pleasure. (R. S. 1897, 5614; R. S. 1894, 5451; R. S. 1881, 4144.)

[1897, p. 163. Approved and in force March 6, 1897.]

Sec. 326. POWERS. 3. The said railroad company shall be capable of purchasing, holding, using, incumbering and conveying any real or personal property reasonably necessary for the location, construction, equipment and operation of its railroad, switches and side-tracks, including land for right of way, power stations, depot grounds, yards and parks, and for the erection thereon of all necessary and proper buildings and other structures; and may buy, own, and sell any kind of property that may be necessary to properly conduct and carry on the business of said railroad. (R. S. 1897, 5615.)

[1861 S., p. 75. Approved June 4, 1861. In force September 7, 1861.]

Sec. 327. EVIDENCE OF INCORPORATION. 4. A copy of any articles of association filed in pursuance of this Act, and certified to be a correct copy by the Secretary of State or his deputy, shall, in all Courts or places, be evidence of the incorporation of such company and of the facts therein stated. (R. S. 1897, 5616; R. S. 1894, 5453; R. S. 1881, 4146.)

[1891, p 109. Approved March 5, 1891. In force June 3, 1891.]

Sec. 328. CONSTRUCTION OF TRACK. 5. Such company may construct its track, switches, side-tracks or turn-outs upon the streets of said cities or towns under the following conditions and restrictions: The said track shall be constructed upon the center or side of said streets, and shall conform exactly to the established grade of such street. The free passage of the streets of such city or town,

occupied or used by said company, shall be impeded or obstructed by such company only to the extent necessary for the purposes for which said company was organized. The points where such track shall intersect and cross the streets of such city or town shall be so arranged by said company as to render the crossing as passable and in as good condition as any other portion of the street. The track shall be from four to five feet in width. Every company organized under the provisions of this Act and owning and operating a street railroad within any city having a population of one hundred thousand and upwards according to the last preceding United States census, shall permit the use of its track or tracks by any incorporated suburban passenger railway company from the corporate limits of such city or town to some central point in such city or town, for the purpose of receiving and discharging passengers, whenever the Common Council and Board of Aldermen, or the Common Council or Board of Trustees of any such city or town shall by ordinance fix such central point and grant a right of way thereto to such suburban passenger railway company upon or over any street, alley, road-bridge or public highway of such city or town now or then occupied in whole or in part by any street railway company with one or more tracks: Provided, That such use shall be upon such conditions as the Common Council and Board of Aldermen, or the Common Council or Board of Trustees of such city or town may prescribe, and upon such terms as to compensation as such companies may mutually agree. And in case such companies can not agree as to such compensation within thirty days from the passage of such ordinance, then such use shall be permitted upon such terms as to compensation as may be fixed and determined by an action instituted by either of such companies, in the Circuit Court of the county in which such city or town may be situate. And no appeal shall operate to stay the use of such track or tracks as fixed and determined in said action: And, provided further, That the provisions of this Act shall not apply to any suburban passenger railway company whose line extends more than ten miles beyond the corporate limits of such city or town. (R. S. 1897, 5617; R. S. 1894, 5154.)

[1861 S., p. 75. Approved June 4, 1861. In force September 7, 1861.]

Sec. 329. POWER TO BORROW MONEY. 6. Such company may, from time to time, borrow such sums of money as may be necessary for completing or operating its railroad; may issue and dispose of its bonds for any amount so borrowed, for such sums and such rate of interest as is allowed by the laws of the State where the contract is

made; and may mortgage its corporate property and franchises to secure any debt contracted by such company. (R. S. 1897, 5618; R. S. 1894, 5455; R. S. 1881, 4148.)

Sec. 330. DIRECTORS AND OFFICERS. 7. The said subscribers to the stock of such contemplated road shall, as soon as the number named in the first section [324] shall have signed the same, proceed to the election of directors, who shall serve for the term of one year. The said directors shall elect the following officers, to wit: President, vice-president, secretary, and treasurer; whose term of office shall be for one year and until their successors are elected and qualified. (R. S. 1897, 5619; R. S. 1894, 5456; R. S. 1881, 4149.)

Sec. 331. ANNUAL MEETING—ELECTION. 8. There shall be an annual meeting of the stockholders held at the office of such company for the election of directors to serve for the ensuing year. Not less than three nor more than seven directors shall be chosen at such meeting of stockholders, by ballot, and by a majority of the stockholders present in person and by proxy; and every such stockholder being so present shall be entitled to give one vote for every share of stock owned by him. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. (R. S. 1897, 5620; R. S. 1894, 5457; R. S. 1881, 4150.)

[1897, p. 201. Appr ved March 6, 1897. In force April 14, 1897.]

Sec. 332. BY-LAWS—RATES OF FARE IN CITIES OF 100,000. 9. The directors of such company shall have power to make by-laws for the management and disposition of stock, property and business affairs of such company not inconsistent with the laws of this State, and prescribing the duties of officers, artificers and servants that may be employed, and for the appointment of all officers for the carrying on all business within the objects and purposes of such company and for regulating the running time, fare, etc., of said road or roads: Provided, however, That in cities in this State having a population of 100,000 or more, according to the United States census of 1890, the cash fare shall not exceed three cents for any one trip or passage upon the street railroad or roads of the same, and every passenger upon such road or roads shall, upon his or her request or demand, without any further cash fare or charge, be transferred from the line upon which he may take passage to and upon any other line or lines in such city owned, controlled or operated by such company

to which he paid his cash fare, and such company, its officers, servants, agents or employes shall, upon the request or demand of any passenger, give a transfer ticket or pass to such passenger entitling him to passage upon the line or lines to which he desires to be transferred, so that he may have one continuous trip or passage over and upon any two of its lines, without any additional cash fare or charge to the point nearest his destination: Be it further provided, however, That such directors may provide reasonable regulations for the transfer of such passengers as to the place where such transfers shall be made and when such transfer tickets shall expire, but every passenger desiring to be so transferred shall be given a reasonable opportunity to do so and to be carried upon the line to which he desires to be transferred. And should any street railroad company in any such city charge, receive or collect more than three cents cash fare, or refuse or neglect to transfer passengers as herein provided, then said company shall forfeit and pay to the person from whom it receives, charges or collects the said cash fare in excess of three cents, or whom such company refuses to transfer as herein provided, the sum of one hundred dollars, to be recovered in a civil action in any Court of competent jurisdiction, and the city in which such railroad company is doing business, running and operating its line or lines of road or roads may, upon the failure of such street railroad company to comply with any of the provisions of this Act, declare the rights, terms, contracts and franchises of such company to the use and occupancy of the streets, alleys, and highways of such city for street railroad purposes forfeited and at an end and may proceed to oust such company from the use and occupancy of such streets, alleys and highways, and may contract and let to any other street railroad company the use and occupancy of such streets, alleys and highways for street railroad purposes, the same to be granted and let in accordance with the provisions of this Act and the laws governing cities having a population of 100,000 or more according to the United States census of 1890. (R. S. 1897, 5621.)

1. This section has been declared unconstitutional by the United States Circuit Court for the District of Indiana. If this be true, the original section is in force, being 4151 R. S. 1881, which is as follows: "The directors of such company shall have power to make by-laws for the management and disposition of stock, property and business affairs of such company not inconsistent with the laws of this State; to prescribe the duties of officers, artificers and servants that may be employed; for the appointment of all officers for carrying on all business within the objects and purposes of such company; and for regulating the running time, fare, etc., of said road or roads."

2. After the decision in the United States Court, the Supreme Court of the State decided the section valid.

Sec. 333. PENALTY FOR OVERCHARGE IN LARGE CITIES. 2. It shall be unlawful for any company organized under the provisions of this Act and owning, controlling, running or operating any street railroad or system of street railroads in any city having a population of 100,000 or more according to the United States census of 1890, or any officer, agent, servant or employe of such company to demand, charge, receive or collect from any passenger upon its road or system of roads a cash fare of more than three cents for any one trip or passage upon the same, and for any violation of the provisions of this section, such company, officer, agent, or employe, shall, upon conviction thereof, be fined in any sum not less than fifty dollars and not more than five hundred dollars. (R. S. 1897, 5622.)

Sec. 334. PENALTY FOR REFUSING TRANSFER IN LARGE CITIES. 3. It shall be unlawful for any company organized under the provisions of this Act, and owning, controlling, running or operating any street railroad system or street railroad in any city having a population of 100,000 or more according to the United States census of 1890, or any officer, agent, servant or employe of such company, to refuse or neglect to transfer any passenger upon the same, after he shall have paid his fare, from any of its lines upon which he may have become a passenger to any other of the lines of such company owned, controlled, run or operated by it in such city and to which he may have requested or demanded to be transferred; or neglect or refuse to give to any passenger after he shall have paid his fare, upon demand or request, a transfer or pass ticket entitling such passenger to be transferred or carried upon any other of its lines in such city to the point of his destination thereon, or who shall neglect or refuse to receive and carry any passenger after he shall have received a transfer ticket or pass entitling him to be transferred and carried by and upon some line or lines other than that upon which he originally took passage, shall, upon conviction thereof, be fined in any sum not less than fifty dollars and not more than five hundred dollars. (R. S. 1897, 5623.)

[1861 S., p. 75. Approved June 4, 1861. In force September 7, 1861.]

Sec. 335. STOCK TRANSFERABLE. 10. The stock of such company shall be transferable in the manner prescribed by the by-laws of the company, and shall be considered personal property. (R. S. 1897, 5624; R. S. 1894, 5459; R. S. 1881, 4152.)

Sec. 336. AMENDMENT OR REPEAL. 11. This Act may be amended or repealed at the discretion of the Legislature. (R. S. 1897, 5625; R. S. 1894, 5463; R. S. 1881, 4153.)

[1897, p. 154. Approved March 5, 1897. In force April 14, 1897.]

Sec. 337. CONSENT OF COMMON COUNCIL—TERMINATION OF FRANCHISE—REMOVAL OF TRACKS. 12. Nothing in this Act contained shall be so construed as to take away from Common Councils of incorporated cities the exclusive powers now exercised over the streets, highways, alleys and bridges within the corporate limits of such cities; and all street railroad companies which may be organized under the provisions of this Act shall first obtain the consent of such Common Council to the location, survey, construction and operation of any street railroad, through, or across, the public streets, alleys, and other public places of any city, before the construction of the same shall be commenced. And any street railroad company having heretofore, or which shall hereafter enter upon, use, and occupy, any of the streets, alleys, highways, or other public places of any city in this State, now having a population of more than 100,000 inhabitants, as shown by the last United States census, under any ordinance or ordinances, contracts, or agreements therein and thereby fixing, or purporting to fix, or limit the period of time for the use and occupancy, for street railway purposes, on any or all of the streets, or other public places, in such city; or where such a time arrangement has been made, and the same has been extended by ordinance, or otherwise, for a further definite named period of time, upon a good and sufficient consideration; then, and in all such cases, upon the final expiration of such time, the rights to use such tracks in such streets, and other public places, laid in such city by any such railway company, its successors or assigns, or any other company, claiming under such ordinances, arrangements or agreements, shall immediately terminate and cease forever; and no street railroad company shall have the right to operate such tracks upon the streets of any such city, except under and in pursuance of an ordinance or contract, specifically stating the period of occupancy. When any contract or arrangement, heretofore or hereafter made between any such city and any street railway company, its successor or assignee company, or other grantee or assignee, has expired or shall hereafter expire, then on, or after such expiration such company may remove its tracks and appurtenances from such streets, alleys, and other public places, doing no more damage to the streets and other public places than is necessary, and when

the same are removed, such company shall restore the streets, as nearly as may be, to the condition in which the same were prior to such removal; which removal shall be made within a time to be fixed by the Mayor of such city, and the work shall be done under the supervision of the Street Commissioner, or other officer having the charge and supervision of the streets therein, and upon failure so to remove the same, the city may cause the same to be removed at the expense of the owner: Provided, That at or before the expiration of the contract period of the occupying company, such city, through its Board of Public Works, shall open to free competition the further occupancy, for a period of thirty years, the streets of such city for the purpose of operating an electric street railroad, and such city, through its Board of Public Works, shall prescribe all conditions and limitations for such use of such streets, and may prescribe what streets shall and what streets shall not be occupied for such purpose; also prescribe the maximum cash and ticket fares to be charged; what paving between the tracks and outside thereof shall be required of said company or companies so competing, and such other conditions as shall best promote the interest of such city and the public, and in such competition no company now organized or hereafter organized for such purpose shall be excluded. And if the occupying company shall not be the successful competitors, then such company as shall be successful in the competition, shall, immediately after acceptance of his bid by said city, through its Board of Public Works, file in the Circuit Court of the county in which such city is located, a complaint or petition for an appropriation or assessment of damages of the occupying company, describing the plant, property, power houses, cars, electric lines and poles and all other appurtenances and appliances connected with and used as a part of such railway system of such occupying company to be appropriated, to which proceedings all persons having an interest in or a lien upon such property shall be made parties; Provided, That such new or other company or corporation at the time of filing its proceedings for an appraisalment of the property of the occupying company, shall also file in such Circuit Court a bond in such an amount as shall be required by the Court, which bond shall be approved by the Court; and said bond shall require that such new or other company or corporation shall take the property of the occupying company at its appraised value, and in default of so doing, such new or other company or corporation shall forfeit all contract rights it may have with the city for occupying its streets, and shall be liable on such bond, either to the city or occupying company, or both, for any damage that may accrue to either the city or the occupying company,

or both, for failure of such new or other company or corporation to pay the appraised value of the property of the occupying company. And the practice and proceedings in, and the value of such plant and property, shall be ascertained by, and in the same manner as, is now by law provided for the appropriation of property, for railway purposes, under the general laws of this State. And when the value is so ascertained, if a prior contract is expired, and, if not expired, then upon such expiration such new company shall, within the time to be fixed by such Court, thereafter pay such sum into the office of the Clerk of the said Court, on payment of which such company shall be seized, and become the owner, free and unincumbered, of all the title to, and of the property so appropriated, and shall proceed immediately to take possession of and operate such railway system, under its contract, if, and when, such term of such prior company is expired; and upon failure to do so, the Common Council of such city shall have the power by ordinance to revoke and cancel such contract. In case the railway company owning the property to be appropriated has theretofore acquired rights to lay and maintain tracks outside of the corporate limits of such city, secured from the Board of Commissioners of such county, which tracks, at the time of such appraisement, by reason of the extension of the corporate limits, are within such city, the same, at the election of the owner, may be embraced in such proceedings and appraisement. (R. S. 1897, 5626.)

[1893, p. 138. Approved and in force February 24, 1893.]

Sec. 338. INCREASE OF STOCK. 1. Any street railway company heretofore or hereafter organized and incorporated under the laws of this State is hereby authorized and empowered to increase its capital stock, by the unanimous consent of its stockholders, declared at any regular or called meeting thereof held pursuant to the by-laws of the corporation, to such amount as may be determined by such meeting. (R. S. 1897, 5627; R. S. 1894, 5460.)

Sec. 339. FILING RESOLUTION FOR INCREASE. 2. Such consent shall be by resolution in writing, fixing the amount to which the capital stock of such corporation shall be increased, and a certified copy of such resolution, over the hand of the secretary of such corporation, shall be filed in the office of the Secretary of State, and upon the payment of the fees provided for in case of incorporation, the capital stock of such corporation shall be taken, regarded and held to

be increased to the amount [specified] in such resolution from the date of the filing thereof as aforesaid. (R. S. 1897, 5628; R. S. 1894, 5461.)

Sec. 340. EVIDENCE. 3. A copy of such resolution so filed in the office of the Secretary of State, and certified to be a correct copy thereof by said Secretary, shall in all Courts or places be evidence of the amount of the capital stock of such company and of the facts stated in such resolution. (R. S. 1897, 5629; R. S. 1894, 5462.)

ARTICLE 2—EXTENSION BEYOND CITY OR TOWN.

SEC.

341. Consent of County Board.

342. Consent of gravel-road company.

343. Protection and regulation.

SEC.

344. Track on highway—Agreement—
Proviso.

[1879 S., p. 175. Approved and in force March 29, 1879.]

Sec. 341. CONSENT OF COUNTY BOARD. 1. Any street or horse-car railway company organized under the laws of the State of Indiana, and operating such railway within any of the incorporated towns or cities of this State, and desiring to extend its road beyond such town or city limits on any State or county road or other public highway; or any other company organized under the laws of the State of Indiana, for similar purposes; or any person or persons desiring to build a horse or street-railway outside of any city, on any public highway,—may do so, after procuring the consent of the Board of County Commissioners of such county. (R. S. 1897, 5630; R. S. 1894, 5465; R. S. 1881, 4155.)

Sec. 342. CONSENT OF GRAVEL-ROAD COMPANY. 2. If such road or highway be graveled or planked by a gravel or plank road company, such street or horse-car railway company shall also be required to procure the consent of such gravel or plank road company to run its road over such gravel or plank road; which consent, when given, shall not be revoked by such gravel or plank road company. (R. S. 1897, 5631; R. S. 1894, 5466; R. S. 1881, 4156.)

[1865, p. 63. Approved and in force March 6, 1865.]

Sec. 343. PROTECTION AND REGULATION. 3. Such street or horse-car railway company operating such road outside of such town or city limits shall have the same protection, and, in its running, be governed by the same regulations prescribed for it within such town or city. (R. S. 1897, 5632; R. S. 1894, 5467; R. S. 1881, 4157.)

[1879 S., p. 175. Approved and in force March 29, 1879.]

Sec. 344. TRACK ON HIGHWAY—AGREEMENT—PROVISO. 4. Such street or horse-car railway company shall, in all cases in which any road or highway shall be used by it for the purposes expressed in this Act, locate its tracks on such part of such highway as may be agreed upon between the parties making such application for the use of such highway and the Board of County Commissioners of the county: Provided, That nothing in this Act shall interfere with any vested right heretofore acquired by any street-railway company organized under the laws of the State of Indiana. (R. S. 1897, 5633; R. S. 1894, 5468; R. S. 1881, 4158.)

ARTICLE 3—GENERAL PROVISIONS.

SEC.

- 345. Assessment—Limit—Proviso.
- 346. Preferred stock.
- 347. Individual liability.
- 348. Extension and amendment of charters.
- 349. Change of contracts—Use of streets.
- 350. Extent of franchise.
- 351. Use of electricity.
- 352. Borrowing money.
- 353. Sale—Lien.
- 354. Conditional sale.
- 355. Recording contract.
- 356. May furnish light and power.
- 357. Power to convey property.

SEC.

- 358. Screens for the protection of motorists.
- 359. Penalty for failure to provide—Prosecuting Attorney's duty.
- 360. Construction through cemetery.
- 361. Paving between tracks—Cost.
- 362. Improvement bonds.
- 363. Acceptance by stockholders.
- 364. Bonds first liens.
- 365. Default in bonds.
- 366. Reissue of bonds—Additional assessment.
- 367. Act construed.

[1867, p. 162. Approved and in force February 28, 1867.]

Sec 345. ASSESSMENT—LIMIT—PROVISO. 1. For the purpose of raising funds to pay any existing debts or liabilities of any street-railway company, due or to become due, the Board of Directors of such company, with the approval of the stockholders owning a majority of the stock, may make a pro rata assessment against the stockholders, the aggregate of which shall not be greater than a sum equal to one-third the amount of stock; and may make all needful rules and regulations in relation thereto, including provisions for the forfeiture, sale, and cancellation of the stock of any stockholder who shall fail to pay his pro rata assessment within thirty days after personal demand or notice given requiring such payment: Provided, That written or printed notice of said assessment shall be served on the stockholder in person, or presented at his or her usual or last place of residence, thirty days before the same is payable; and the certificate of any Notary Public, attested by his official seal, shall be

sufficient evidence of the service of said notice, or of its presentation at the residence of the stockholder, either within or without this State. (R. S. 1897, 5634; R. S. 1894, 5469; R. S. 1881, 4159.)

Sec. 346. **PREFERRED STOCK.** 2. For the purpose of providing means for the payment of its debts, for the construction of its roads, or for materials or equipments, such company may issue preferred stock to an amount not exceeding one-half the amount of its capital, with such priority over the remaining stock of such company, in the payment of dividends, as the directors of such company may determine and shall be approved by the stockholders owning a majority of such stock. (R. S. 1897, 5635; R. S. 1894, 5470; R. S. 1881, 4160.)

Sec. 347. **INDIVIDUAL LIABILITY.** 3. Stockholders in such company shall be individually responsible for such company's liabilities or debts hereafter created, in the same manner, and to the same extent, and no greater, than stockholders in other railroad companies are individually liable under the general laws of this State. (R. S. 1897, 5636; R. S. 1894, 5471; R. S. 1881, 4161.)

[1891, p. 481. Approved and in force March 10, 1891.]

Sec. 348. **EXTENSION AND AMENDMENT OF CHARTER.** 1. In all cities of 50,000 and less than 100,000 inhabitants, according to the United States census of 1890, in the said State of Indiana, City Councils and all other city authorities are prohibited from extending the franchise or franchises of street railway companies, or any other franchise of any other corporation covering the use of the streets and alleys of said cities, or from changing, altering or in any way amending such franchise or franchises during the term for which they were originally granted by the City Councils, or other authorities. (R. S. 1897, 5637; R. S. 1894, 5477.)

Sec. 349. **CHANGE OF CONTRACTS—USE OF 'STREETS.** 2. City Councils and all other city authorities in cities of 50,000, and less than 100,000 population, according to the United States census of 1890, are also prohibited from extending, changing, altering or amending any contract or contracts made with any individual or corporation to serve the public with gas, electric lights, steam heating or any and all other conveniences and necessities, whose service requires the use of the city streets and alleys during the term for which said

contract was originally made and entered into. (R. S. 1897, 5638; R. S. 1894, 5478.)

Sec. 350. EXTENT OF FRANCHISE. 3. Cities of 50,000 and less than 100,000 population, according to the United States census of 1890, shall not grant a franchise to any corporation or person or persons for any purpose for a period to exceed twenty-five (25) years from the date of such grant and for a less consideration than two per cent. per annum of the gross receipts of the business for which said franchise is used. (R. S. 1897, 5639; R. S. 1894, 5479.)

[1891, p. 68. Approved and in force March 3, 1891.]

Sec. 351. USE OF ELECTRICITY. 1. Any street or horse railroad heretofore or hereafter organized in this State may, with the consent of the Common Council of the city in which such railroad or any part thereof is located and operated, and with the consent of the Board of Commissioners of the county where such railroad or any part thereof is operated beyond the limits of such city, use electricity for motive power: Provided, That nothing in this Act contained shall be so construed as to take away from the Common Councils of incorporated cities the exclusive powers now exercised over the streets, highways, alleys and bridges within the corporate limits of such cities, and all such street railroad companies shall first obtain the consent of such Common Council for the operation by electricity of their cars along, through or across the public streets or alleys of any city before the operation by electricity of their cars shall be commenced: Provided, That in giving such consent such Common Council, or Board of County Commissioners, may do so upon such terms and conditions as they may see fit to impose. (R. S. 1897, 5640; R. S. 1894, 5472.)

Sec. 352. BORROWING MONEY. 2. Any such company may, from time to time, borrow money for completing, operating or equipping its railroad, may issue and dispose of its bonds for any amount so borrowed, and may mortgage its corporate property and franchises to secure such bonds or any contract by such company. (R. S. 1897, 5640; R. S. 1894, 5473.)

Sec. 353. SALE—LIEN. 3. In any written contract of or for the sale of electrical equipment for such street railroad, by the terms of which the purchase money, in whole or in part, is to be paid in the future, it may be agreed that the title to the property so sold or contracted to be sold shall not pass to or vest in the vendee until the purchase money shall have been fully paid, or that the vendor shall have

and retain a lien thereon for the unpaid purchase money, notwithstanding delivery thereof to and possession by the vendee. (R. S. 1897, 5642; R. S. 1894, 5474.)

Sec. 354. **CONDITIONAL SALE.** 4. In any written contract for the leasing or renting of such electrical equipment it shall be lawful to stipulate for a conditional sale thereof at the termination of such lease, and to stipulate that the rental received may, as paid or when paid in full, be applied and treated as purchase money, and that the title to such property shall not vest in such lessee or vendee until the purchase money shall have been paid in full, notwithstanding delivery to and possession by such lessee or vendee. (R. S. 1897, 5643; R. S. 1894, 5475.)

Sec. 355. **RECORDING CONTRACT.** 5. Every such contract specified in sections three and four shall be good, valid and effectual, both in law and equity, against all purchasers and creditors: Provided, First, the same shall be acknowledged by the vendee or lessee before some officer authorized by law to take acknowledgments of deeds; second, such estimate shall be recorded in thirty days after such execution, in the miscellaneous record in the office of the Recorder of the county in which such street railroad is located and operated. (R. S. 1897, 5644; R. S. 1894, 5476.)

[1895, p. 193. Approved and in force March 9, 1895.]

Sec. 356. **MAY FURNISH LIGHT AND POWER.** 1. Any street railway company whose lines of street railway are, or may hereafter be operated, in whole or in part, by electrical power, may, with the consent of all of the stockholders of such company, for the purpose of supplying electricity and steam, for light, heat and power, in the town or city, and its vicinity, in which such street railway is operated, purchase, or otherwise acquire, and hold and use the plant and other property, real and personal, rights, contracts, privileges, easements and franchises of any incorporated company which, or person or persons who, may be engaged in supplying electricity or steam for light, heat or power in such city or town, or its vicinity, with like consent of all the stockholders of such latter company, or of such person or persons. (R. S. 1897, 5645.)

Sec. 357. **POWER TO CONVEY PROPERTY.** 2. Any street railway company engaged in the business of supplying electricity or

steam for light, heat and power, shall have the same right to sell, convey, mortgage, or otherwise dispose of or encumber its property and franchises acquired and used for the purposes of said business, either separately or in connection with its street railway property and franchises, as it possesses with reference to such street railway property and franchises. (R. S. 1897, 5646.)

[1895, p. 157. Approved March 7, 1895. In force June 28, 1895.]

Sec. 358. SCREEN FOR PROTECTION OF MOTORMEN.

1. Every electric street car, other than trail cars which are attached to motor cars, shall, during the months of November, December, January, February and March of each year, be provided, at the forward end thereof, with a screen constructed of glass or other materials, which shall fully and completely protect the driver, or motorman, or gripman, or other person stationed on such forward end and driving, guiding or directing the motive power by which such cars are propelled, from wind and storm. (R. S. 1897, 5647.)

Sec. 359. PENALTY FOR FAILURE TO PROVIDE—PROSECUTING ATTORNEY'S DUTY. 2. Any corporation, company, officer, agent, or any person violating the provisions of this Act shall, upon conviction, be fined in any sum not less than twenty-five dollars nor more than one hundred dollars for each day each such car belonging to, used, or controlled by any such corporation, company, officer, agent, or other person is permitted to remain unprovided with the screen required in section one of this Act; and it is hereby made the duty of the prosecuting attorney of each county where such cars are, or may be used, to institute the necessary proceedings to enforce the provisions of this Act. (R. S. 1897, 5648.)

[1895, p. 16. Approved and in force February 18, 1895.]

Sec. 360. CONSTRUCTION THROUGH CEMETERY FORBIDDEN—RAILROAD. 2. Nothing in the statutes of this State contained shall be construed to authorize any corporation organized for the purpose of constructing any railroad, or street railroad, or any electric railway, or any person or persons to locate and construct the line of any such road through the lands of any cemetery dedicated or purchased with a view to their being dedicated to burial purposes, situated in any county in this State having within its boundaries a city containing a population of more than one hundred thousand inhabitants. (R. S. 1897, 5649.)

[1897, p. 173. Approved and in force March 6, 1897.]

Sec. 361. PAVING BETWEEN TRACKS—COST. 1. Where in any city or town in said State having therein a street railway operated by electricity or other power operating such street railway, the company is required by its franchise to pave any portion of any street or alley in any city or town, then said city or town shall extend by ordinance or resolution to such street railway company, if it should be so requested by the street railway company, a period of time in which to pay for the said improvement or improvements. (R. S. 1897, 5650.)

Sec. 362. IMPROVEMENT BONDS. 2. When the franchise of such company requires paving to be done by such company, then the Common Council of such city, or Board of Trustees of such town shall, when such company shall so request, and shall execute and file with the Clerk of such city or town the stipulation and agreement waiving objections on account of illegality or irregularity of proceedings, as is now required by law in case of owners of abutting property, by proper resolution or ordinance, enter into an agreement with said street railway company to issue bonds for a period of years not less than ten, or for any other number of years agreed to by such Common Council or Board of Trustees and such street railway company, and shall issue the same according to such agreement. Such bonds to be in such denomination as may be agreed upon, and shall bear interest not to exceed six per cent. per annum. The amount of said bond shall be equal to the amount due for the improvement, and said bonds shall be divided into a series of equal parts corresponding to the number of years in which the bonds are to be payable. One equal series of such bonds shall become due and payable each year with the interest on the whole of the amount of the bonds, which interest shall be payable semi-annually. The said bonds shall be issued and sold by said city, or town, in the same manner, and be governed by the same laws as other street improvement bonds. (R. S. 1897, 5651.)

Sec. 363. ACCEPTANCE BY STOCKHOLDERS. 3. Before the said bonds are to be issued and any street railway company is to receive the rights and benefits conferred by this Act, such street railway company shall call a meeting of its stockholders and have them accept the ordinance or resolution passed by the Common Council of such city, or the Board of Trustees of such town, and after such action by the stockholders, the Directors of such company shall ratify the action of said stockholders, and certified copies of the minutes of the

meetings are to be properly attested and filed with the Clerk of such city or town. (R. S. 1897, 5652.)

Sec. 364. BONDS FIRST LIEN. 4. Such improvement bonds shall have the same priority over other liens as have assessments for other street improvements, and are to be the first lien on all the property, assets and franchises of said street railway company. (R. S. 1897, 5653.)

Sec. 365. DEFAULT IN BONDS. 5. Should any street railway company fail to pay any such bonds, or interest thereon, at maturity, then all of the said bonds shall become due and payable at the option of the holder, or holders of the same, or of such Common Council, or such Board of Trustees, and the same may be foreclosed as any other street improvement bonds; in which action the plaintiff or plaintiffs may have a receiver appointed for said company to take charge of, and sell all the property and assets of the defendant to satisfy such improvement bonds: Provided, however, That no action shall be brought against any street railway company under this Act until there is a default which has been continued for six months after the payment of the principal or interest of such bonds is due. (R. S. 1897, 5654.)

Sec. 366. RE-ISSUE OF BONDS — ADDITIONAL ASSESSMENT. 6. If any street railway has entered into any agreement prior to the passage of this Act, by and under which bonds have been issued for any street improvement, and said city desires to make further street improvements, for which said company would be liable, then such city may issue new bonds in lieu of any bonds that may have been heretofore issued, and the proceeds thereof shall be paid to the holders of the outstanding bonds, and such re-issue of bonds shall retain the same priority as the original. (R. S. 1897, 5655.)

Sec. 367. ACT CONSTRUED. 7. Nothing in this Act shall be construed to mean as extending the liability of any city or town on account of such improvements beyond the liability existing as to other street improvement bonds. (R. S. 1897, 5656.)

PART III.

CHAPTER 5.

COMMON CARRIERS.

ART.	ART.
1. <i>Unclaimed articles.</i>	4. <i>Taxation of express and sleeping car companies.</i>
2. <i>Passenger tickets.</i>	5. <i>Taxation of domestic corporations.</i>
3. <i>Foreign express companies.</i>	

ARTICLE 1—UNCLAIMED ARTICLES.

SEC.	SEC.
368. <i>May be sold.</i>	370. <i>Carrier to keep papers.</i>
369. <i>Notice of sale—Unclaimed balance.</i>	371. <i>Perishable property and live stock.</i>

[1865 S., p. 198. Approved and in force December 21, 1865.]

Sec. 368. MAY BE SOLD. 1. When any freight, or any baggage of passengers, has been conveyed by a common carrier to any point in this State, and shall remain unclaimed for the space of three months at the place to which it is consigned or checked, and the owner, whether known or unknown, fails, within that time, to claim such freight or baggage, and to pay the proper charges, if any there be against it, then it shall be lawful for such common carrier to sell such freight or baggage at public auction, offering each box, bale, trunk, valise, or other article separately as consigned or checked. (R. S. 1897, 3357; R. S. 1894, 3294; R. S. 1881, 2900.)

Sec. 369. NOTICE OF SALE—UNCLAIMED BALANCE. 2 Sixty days' notice of the time and place of sale and a descriptive list of the articles to be sold, with the names, numbers, or other marks found thereon, shall be posted up in three public places of the county where the sale is to be made, and one on the door of the depot or warehouse, if any, where the goods are; and shall also give notice in at

least one paper in the county for sixty days before sale; and out of the proceeds of such sale the carrier shall pay the proper charges on such freight or baggage, including costs for storage for the previous three months, and hold the overplus, if any, subject to the order of the owner, at any time within five years, on proof of ownership, made by the affidavit of the claimant or his duly authorized agent or attorney. After five years, all sums of money remaining unclaimed to be paid into the County Treasury, to be placed to the account of common schools. (R. S. 1897, 3358; R. S. 1894, 3295; R. S. 1881, 2901.)

Sec. 370. CARRIER TO KEEP PAPERS. 3. The carrier shall keep a copy of the notice, a copy of the sale-bill, and the expenses thereof proportioned to each article sold, and also the oath of the claimant of the residue of the proceeds as aforesaid; and shall furnish an inspection of the same, and, if required, copies thereof, to any one, on payment of the proper charges therefor. (R. S. 1897, 3359; R. S. 1894, 3296; R. S. 1881, 2902.)

Sec. 371. PERISHABLE PROPERTY AND LIVE STOCK. 4. If any perishable property or live stock shall be so conveyed, either as freight or baggage as aforesaid, and remain unclaimed until in danger of great depreciation, or such live stock be falling away because the carrier has not facilities to feed and water the same, then the carrier may, after the expiration of five days from the time said property is conveyed to the place to which it is consigned or checked, sell, at private sale or auction, without giving the ten days' notice, for the best price it will bring, and apply the proceeds as aforesaid. (R. S. 1897, 3360; R. S. 1894, 3297; R. S. 1881, 2903.)

ARTICLE 2—PASSENGER TICKETS.

SEC.

- 372. Conditions on ticket.
- 373. Ticket-sellers.
- 374. Redemption and sale of coupons.
- 375. Penalty against carrier.

SFC.

- 376. Sale without authority.
- 377. Posting authority.
- 378. Penalty.
- 379. Special tickets excepted.

[1875, p. 123. Approved March 9, 1875. In force August 24, 1875.]

Sec. 372. CONDITIONS ON TICKET. 1. It shall not be lawful, from and after the taking effect of this Act, for any officer or agent of any railroad, steamboat, or other public conveyance of passengers for hire or reward, or for the operator or operators, manager or managers (or his or their agent or agents) of any such railroad, steamboat, or other public conveyance, to issue or sell any pass, ticket,

or coupon of a ticket, or certificate evidencing the holder's right to travel over or be transported in or upon such railroad, steamboat, or other public conveyance, subject to any condition contained in or indorsed upon or appended to such pass, ticket, coupon or certificate, whereby the liability of such carrier shall be abridged or limited, or whereby the rights of the holder of such pass, ticket, coupon, or certificate shall be decreased or abridged, unless such condition shall be printed in nonpareil type, or in type or characters as large or larger than nonpareil type. Any such officer, agent, operator, or manager, or the agent of such operator or manager who shall violate the provisions of this section, shall, upon conviction thereof, be fined not less than ten dollars nor more than one hundred dollars for each pass, ticket, or coupon which he shall issue or sell contrary to the provisions of this section: Provided, however, That nothing herein shall be held or construed to change or in any manner affect the law, as it now exists, regulating the liability of common carriers, or to enlarge their right to limit, or restrict their liabilities on account of having such attempted limitation printed, as required by this Act. (R. S. 1897, 3361; R. S. 1894, 3298; R. S. 1881, 2904.)

Sec. 373. TICKET SELLERS. 2. It shall be the duty of the owner or owners, or the operator or operators of every railroad and steamboat, or other public conveyance for the transportation of passengers for hire or reward, to provide each agent who may be authorized to sell tickets or other certificates evidencing the right of the holder thereof to travel or be transported upon such railroad, steamboat, or other public conveyance, with a certificate, setting forth the authority of such agent to make such sales, which certificate shall be signed by the managing officer, and duly attested by the corporate seal of the owner or operator of such railroad, steamboat or other public conveyance. (R. S. 1897, 3362; R. S. 1894, 3299; R. S. 1881, 2905.)

Sec. 374. REDEMPTION AND SALE OF COUPONS. 3. It shall be the duty of the owner or owners, operator or operators of every railroad, steamboat, or other public conveyance of passengers for hire or reward, to provide, at each agency for the sale of tickets, for the redemption of the whole of any ticket or any part or parts or coupon of any ticket which they may have sold, and which the purchaser, for any reason, shall not have used, at the following rates, namely: Where the whole ticket is presented for redemption, at the full price paid for the same; and when a part of coupon of the ticket

only is presented for redemption, then the redemption shall be at a rate which shall be equal to the difference between the price paid for the whole ticket and the cost of a ticket between the points for which the part of said ticket was actually used. And the sale, by any person, of the unused portion of any ticket, otherwise than by the presentation of the same for redemption as aforesaid, shall be deemed to be a misdemeanor, and shall be punished by a fine of not less than five dollars nor more than fifty dollars: Provided, however, That this Act shall not prohibit any person who shall have purchased a ticket from an agent authorized, as is by this Act provided, with the bona fide intention of traveling on the same, from selling such tickets, or any part or coupon thereof, to any other person, to be used in good faith by such person in traveling over such railroad, or in or upon such steamboat or other public conveyance. (R. S. 1897, 3363; R. S. 1894, 3300; R. S. 1881, 2906.)

Sec. 375. PENALTY AGAINST CARRIER. 4. If any owner, operator, or manager of any railroad, steamboat, or other public conveyance of passengers, or his agent, shall violate any of the provisions of the preceding section, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten nor more than one hundred dollars. (R. S. 1897, 3364; R. S. 1894, 3301; R. S. 1881, 2907.)

Sec. 376. SALE WITHOUT AUTHORITY. 5. It shall not be lawful for any person not possessed of the authority mentioned in the second section [Sec. 373], and not evidenced as therein provided for, to sell, barter, or transfer, within this State, for any consideration whatever, the whole or any part of any ticket or tickets, passes, or other evidence of the holder's title to travel on or be transported in or over any railroad, steamboat, or other public conveyance, whether the same be situated, owned or operated within or without this State, except as provided for in section three [Sec. 374]. (R. S. 1897, 3365; R. S. 1894, 3302; R. S. 1881, 2908.)

Sec. 377. POSTING AUTHORITY. 6. It shall be the duty of every agent who shall be authorized to sell tickets or parts of tickets, or coupons, as is provided for in section two [Sec. 373], or other evidences of the holder's title to travel on any railroad or in any steamboat or public conveyance, to keep his certificate of authority posted in a conspicuous place in his office, and also to exhibit the same to any

person desirous of purchasing a ticket or to any officer of the law who may request to see or inspect such certificate of authorization. (R. S. 1897, 3366; R. S. 1894, 3303; R. S. 1881, 2909.)

Sec. 378. PENALTY. 7. Any person who shall violate any provisions of either of the last two preceding sections shall, upon conviction thereof, be fined not less than ten nor more than one hundred dollars. (R. S. 1897, 3367; R. S. 1894, 3304; R. S. 1881, 2910.)

Sec. 379. SPECIAL TICKETS EXCEPTED. 8. The provisions of this Act shall not apply to special, half-fare, or excursion tickets. (R. S. 1897, 3368; R. S. 1894, 3305; R. S. 1881, 2911.)

ARTICLE 3—FOREIGN EXPRESS COMPANIES.

SEC.

- 380. Common carriers.
- 381. Statement to be filed.
- 382. Suits.
- 383. Common carriers defined.

SEC.

- 384. Counting money—Record.
- 385. Bill—Receipt.
- 386. Suit on way-bill.

[1879 S., p. 146. Approved and in force March 29, 1879.]

Sec. 380. COMMON CARRIERS. 1. All co-partnerships, associations of person, joint-stock associations, or companies not organized or incorporated under the laws of this State, usually called Express Companies, regularly engaged or hereafter engaged in the business of carrying or transporting money, merchandise, or other articles over or upon any of the railroads, rivers, canals, or other thoroughfares in this State, and receiving and agreeing to receive compensation for such services, are hereby declared common carriers, and shall be subject to all the liabilities to which common carriers, by law, are subject. (R. S. 1897, 3369; R. S. 1894, 3306; R. S. 1881, 2912.)

Sec. 381. STATEMENT TO BE FILED. 2. All such co-partnerships, associations of persons, joint-stock associations, or companies shall file in the office of the Recorder in each county in which their business is conducted, or where they may have an agency or office, a statement, setting forth the name and locality of such co-partnership, association of persons, joint-stock association, or company; the amount of capital employed in such business; and also an agreement authorizing citizens or residents of this State, having a claim or demand against said co-partnership, association of persons, joint-stock association, or company, arising out of any transaction in

this State with any agent or employe of such co-partnership, association of persons, joint-stock company, or company, to sue for and maintain an action in respect to the same in any Court in this State of competent jurisdiction; and further authorizing service of process in such action on any officer or agent of such co-partnership, association of persons, joint-stock association, or company to be valid service on such co-partnerships, associations of persons, joint-stock associations, or companies, and that such service shall authorize judgment and all other proceedings against such co-partnerships, association of persons, joint-stock associations, or companies. Such statement and agreement shall be signed by the President or principal officer of the co-partnership, association of persons, joint-stock association, or company for which he may have authority to act, and shall be verified by oath or affirmation, before the same shall be admitted to record. The Recorder of every county, where such statement shall be filed, shall record the same, and shall be entitled to demand and receive from such co-partnership, association of persons, joint-stock association, or company, for the services herein required, the sum of two dollars. Until such statement and agreement shall be filed and recorded, it shall not be lawful for any such co-partnership, association of persons, joint-stock association, or company to transact, in any county in this State, the business named in the preceding section; and any co-partnership, association of persons, joint-stock association, or company, or any officer, agent, or employe thereof, violating the provisions herein contained, shall, for every such offense, be guilty of a misdemeanor, and, on conviction thereof, be fined not less than ten nor more than one hundred dollars. (R. S. 1897, 3370; R. S. 1894, 3307; R. S. 1881, 2913.)

Sec. 382. SUITS. 3. All such co-partnerships, associations of persons, joint-stock associations, or companies may sue and maintain suits, and be sued and defend suits, in any Court of competent jurisdiction in this State, in and by the name set forth in the statement required to be filed and recorded in this Act; and the record or a certified copy thereof of such statement shall be deemed sufficient proof, on the trial thereof, of the existence of such co-partnerships, associations of persons, joint-stock associations, or companies. But until such co-partnerships, associations of persons, joint-stock associations, or companies shall comply with the provisions of the preceding section, it shall not be lawful for such co-partnerships, associations of persons, joint-stock associations, or companies, to sue and maintain an action for any claim or demand whatever, against any citizen of this

State, arising out of any transaction connected with such express business in this State. (R. S. 1897, 3371; R. S. 1894, 3308; R. S. 1881, 2914.)

[1883, p. 107. Approved and in force March 5, 1883.]

Sec. 383. COMMON CARRIERS DEFINED. 1. All co-partnerships, corporations, associations, or joint-stock companies, usually called Express Companies, regularly engaged, or hereafter engaged, in the business of carrying or transporting gold or silver coin or paper currency, over or upon any of the railroads, rivers, canals, or other thoroughfares in the State of Indiana, or to any point within the State, or from any point within this State, and receiving or agreeing to receive compensation for such services, are hereby declared common carriers. (R. S. 1897, 3372; R. S. 1894, 3309.)

Sec. 384. COUNTING MONEY — RECORD. 2. All such co-partnerships, corporations, or associations of persons, or joint-stock associations, usually called express companies, or engaged as common carriers, now doing business within this State, or hereafter engaged in the business of carrying or transporting any gold or silver coin or paper currency, over or upon any railroad, river, canal, or other thoroughfare within this State, or to any point within this State, and receiving or agreeing to receive compensation for such carrying or transportation of any gold or silver coin or paper currency, as herein provided, shall, when any gold or silver coin or paper currency is presented for transportation, at any agency or office of such company within this State, be required to ascertain, by actual count, the amount of such gold or silver coin or paper currency received or accepted at such agency or office for transportation, and the amount so received or accepted shall be duly entered of record upon a book to be provided and kept by such Express Company, corporation, or association of persons doing business as herein provided, which record book shall also give the name of the person or persons from whom such gold or silver coin or paper currency was received, the kind and amount of each, and the day and date upon which the same was delivered and accepted for transportation, and to whom and what point the same is to be delivered. (R. S. 1897, 3373; R. S. 1894, 3310.)

Sec. 385. WAY BILL — RECEIPT. 3. Upon the acceptance of any gold or silver coin or paper currency, by any association of persons, corporation, or Express Company doing business within this

State, as provided in this Act, such Express Company shall, by themselves or their lawful agent, execute to the consignor of any gold or silver coin or paper currency so delivered for transportation, a way bill or receipt for such currency, which way bill or receipt shall specify the exact amount of such gold or silver coin or paper currency, from whom received, to whom and what point the said Express Company or corporation agrees to deliver such currency, and the day and date that the same was consigned and accepted for transportation. (R. S. 1897, 3374; R. S. 1894, 3311.)

Sec. 386. SUIT ON WAY BILL. 4. The consignor named in the receipt or way bill, as provided for in section three of this Act, his heirs, assigns, or legal representatives may, where such Express Company or corporation has failed within a reasonable time to deliver such gold or silver coin or paper currency to the point of destination, as shown in such way bill or receipt, or refuses to account to the consignor for the full amount of such gold or silver coin or paper currency, institute suit upon such way bill or receipt in any Court of this State having competent jurisdiction, for the full amount of such gold or silver coin or paper currency named in such way bill or receipt: Provided, That such way bill or receipt shall be deemed and taken in such suit as sufficient evidence to establish the claim or demand for the amount named in such way bill or receipt. (R. S. 1897, 3375; R. S. 1894, 3312.)

ARTICLE 4—TAXATION OF EXPRESS AND SLEEPING CAR COMPANIES.

SEC.
387. Express companies.
388. Sleeping-car companies.
389. Auditor of State's duty—Penalty.
390. Duty of State Board of Tax Commissioners.
391. Assessment, how made.

SEC.
392. Value per mile.
393. Apportioning assessments.
394. County Auditor's duty.
395. Collections.
396. Repealing clause—Proviso.

Sec. 387. EXPRESS COMPANIES. 3. Every joint stock association, company, copartnership or corporation incorporated or acting under the laws of this or any other State, or any foreign nation, engaged in conveying to, from, through, in or across this State, or any part thereof, money packages, gold, silver, plate, merchandise, freight or other articles, under any contract, express or implied, with any railroad company, or the managers, lessees, agents or receivers thereof, provided such joint stock association, company, copartnership or corporation is not a railroad company, shall be deemed and held to be an express company within the meaning of this Act; and every such

express company shall, annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement, verified by the oath of the officer or agent of such association, company, copartnership or corporation making such statement with reference to the first day of April next preceding, showing:

First. The total capital stock or capital of said association, company, co-partnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share, and in case no shares of capital stock are issued, in what manner the capital thereof is divided, and in what manner such holdings are evidenced.

Third. Its principal place of business.

Fourth. The market value of the said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof. And, in case no shares of stock have been issued, state the market value, or the actual value, in case there is no market value, of the capital thereof and the manner in which the same is divided.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State of Indiana, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the improvements thereon, owned by said association, company, copartnership or corporation situate outside the State of Indiana, and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

Eighth. (a). The total length of the lines or routes over which such association, company, copartnership or corporation transports such merchandise, freight or express matter.

(b). The total length of such lines or routes as are outside the State of Indiana.

(c). The length of such lines or routes within each of the counties and townships within the State of Indiana. (R. S. 1897, 9010; R. S. 1894, 8480.) See section 391.

Sec. 388. SLEEPING-CAR COMPANIES. 4. Every joint stock association, company, copartnership or corporation incorporated or

acting under the laws of this or any other State or of any foreign nation, and conveying to, from, through, in or across this State, or any part thereof, passengers or travelers in palace cars, drawing-room cars, sleeping cars, dining cars or chair cars, under any contract, express or implied, with any railroad company, or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a sleeping-car company for the purposes of this Act; and every such sleeping-car company doing business in this State shall, annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the first day of April next preceding, showing:

First. The total capital stock of such association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation, within the State, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specified real estate, together with the permanent improvements thereon, owned by such association, company, copartnership or corporation, situate outside the State of Indiana and not used directly in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages upon the whole or any of its property, together with the franchises and amounts thereof.

Eighth. (a). The total length of the main lines of all the railroad companies over which said cars are run.

(b). The total length of so much of the main lines of the railroad companies over which cars are run as is outside the State of Indiana.

(c). The length of the lines of said railroad companies over which said cars are run within each of the counties and townships within the State of Indiana: Provided, That where the railroads over which said lines run have double tracks, or a greater number of tracks than

a single track, the statement shall only give the mileage as though such tracks were but a single track, and, in case the Auditor of State shall require it, such statement shall show in detail the number of miles of each on any particular railroad system or division. (R. S. 1897, 9011; R. S. 1894, 8481.) See section 391.

Sec. 389. AUDITOR OF STATE'S DUTY — PENALTY. 5. Upon the filing of such statements the Auditor of State shall examine them, and each of them, and if he shall deem the same insufficient, or in case he shall deem that other information is requisite, he shall require such officer to make such other statements as said Auditor of State may call for. In case of the failure or refusal of any association, company, copartnership or corporation to make out and deliver to the Auditor of State any statement or statements required by this Act, such association, company, copartnership or corporation shall forfeit and pay to the State of Indiana one hundred dollars (\$100) for each additional day such report is delayed beyond the first day of June, to be sued and recovered in any proper form of action, in the name of the State of Indiana, on the relation of the Auditor of State, and such penalty, when collected, shall be paid into the general fund of the State. (R. S. 1897, 9012; R. S. 1894, 8482.)

Sec. 390. DUTY OF STATE BOARD OF TAX COMMISSIONERS. 6. Upon the meeting of the State Board of Tax Commissioners for the purpose of assessing railroad and other property, said Auditor of State shall lay such statements, with such information as may have been furnished him, before said Board of Tax Commissioners, who shall thereupon value and assess the property of each association, company, co-partnership or corporation in the manner hereinafter set forth, after examining such statements and after ascertaining the value of such properties therefrom, and from such other information as they may have or obtain. For that purpose they may require the agents or officers of said association, company, copartnership or corporation to appear before them with such books, papers or statements as they may require, or they may require additional statements to be made to them, and may compel the attendance of witnesses in case they shall deem it necessary to enable them to ascertain the true cash value of such property. (R. S. 1897, 9013; R. S. 1894, 8483.)

Sec. 391. ASSESSMENT, HOW MADE. 7. Said State Board of Tax Commissioners shall first ascertain the true cash valuation of

the entire property owned by said association, company, copartnership or corporation from said statements or otherwise, for that purpose taking the aggregate value of all the shares of capital stock, in case such shares have a market value, and in case they have none, taking the actual value thereof or of the capital of said association, company, copartnership or corporation, in whatever manner the same is divided, in case no shares of capital stock have been issued: Provided, however, That in case the whole or any portion of the property of such association, company, copartnership or corporation shall be incumbered by a mortgage or mortgages, such board shall ascertain the true cash value of such property by adding to the market value of the aggregate shares of stock or to the value of the capital, in case there shall be no such shares, the aggregate amounts of such mortgage or mortgages, and the result shall be deemed and treated as the true cash value of the property of such association, company, copartnership or corporation. Said Board of Tax Commissioners shall, for the purpose of ascertaining the true cash value of the property within the State of Indiana, next ascertain, from such statements or otherwise, the assessed value for taxation, in the localities where the same is situated, of the several pieces of real estate situated without the State of Indiana, and not specifically used in the general business of such associations; companies, copartnerships or corporations, which said assessed values for taxation shall be by said board deducted from the gross value of the property as above ascertained. Said State Board of Tax Commissioners shall next ascertain and assess the true cash value of the property of such associations, companies, copartnerships or corporations within the State of Indiana, by taking the proportion of the whole aggregate value of said associations, companies, copartnerships or corporations, as above ascertained, after deducting the assessed value of such real estate without the State, which the length of the lines of said associations, companies, copartnerships or corporations, in the case of telegraph and telephone companies within the State of Indiana bears to the total length of the lines thereof; and, in the case of palace, drawing-room, sleeping, dining or chair car companies, the proportion shall be the proportion of such aggregate value, after such deductions, which the length of the lines within the State, over which said cars are run, bears to the length of the whole lines over which said cars are run; and in the case of express companies, the proportion shall be the proportion of the whole aggregate value, after such deductions, which the length of the lines or routes within the State of Indiana bears to the whole length of the lines or routes of such associations, companies, copartnerships or corporations, and such amount

so ascertained shall be deemed and held as the entire value of the property of said associations, companies, copartnerships or corporations within the State of Indiana.

From the entire value of the property within the State so ascertained, there shall be deducted, by said board, the assessed value for taxation of all the real estate, structures, machinery and appliances within the State and subject to local taxation in the counties and townships, as hereinbefore described in item No. 5 of sections 1, 2, 3 and 4 of this Act [Secs. 421, 436, 387, 388], and the residue of such value so ascertained, after deducting therefrom the assessed value of such local properties, shall be by said board assessed to said associations. (R. S. 1897, 9014; R. S. 1894, 8484.)

Sec. 392. VALUE PER MILE. 8. Said State Board of Tax Commissioners shall thereupon ascertain the value per mile of the property within the State by dividing the total value, as above ascertained, after deducting the specific properties locally assessed within the State by the number of miles within the State, and the result shall be deemed and held as the value, per mile, of the property of such association, company, copartnership or corporation within the State of Indiana. (R. S. 1897, 9015; R. S. 1894, 8485.)

Sec. 393. APPORTIONING ASSESSMENTS. 9. Said State Board of Tax Commissioners shall thereupon, for the purpose of determining what amount shall be assessed by it to said association, company, copartnership or corporation in each county in the State through, across, into or over which the line of said association, company, copartnership or corporation extends, multiply the value per mile as above ascertained by the number of miles in each such counties, as reported in said statements or as otherwise ascertained, and the result thereof shall be, by said board, certified to the Auditor of State, who shall thereupon certify the same to the Auditors, respectively, of the several counties through, into, over or across which the lines or routes of said association, company, copartnership or corporation extend, and such Auditors shall apportion the amount certified for their counties, respectively, among the several townships into, through, over or across which such lines or routes extend, in proportion to the length of the lines in such townships. (R. S. 1897, 9016; R. S. 1894, 8486.)

Sec. 394. COUNTY AUDITOR'S DUTY. 10. To enable said County Auditors to properly apportion the assessments between the several townships, they are authorized to require the agent of said

association or company to report to them, respectively, under oath, the length of the lines in each township, and the Auditor shall thereupon add to the value, so apportioned, the assessed valuation of the real estate, structures, machinery, fixtures and appliances situated in any township and extend the taxes thereon upon the duplicates as in other cases. (R. S. 1897, 9017; R. S. 1894, 8487.)

Sec. 385. COLLECTIONS. 11. In case any such association, copartnership or corporation, as named in this supplemental and the amendatory Act, shall fail or refuse to pay any taxes assessed against it in any county or township in the State, in addition to other remedies provided by law for the collection of taxes, an action may be prosecuted in the name of the State of Indiana by the Prosecuting Attorneys of the different judicial circuits of the State, on the relation of the Auditors of the different counties of the State, and the judgment in said action shall include a penalty of fifty per cent. of the amount of taxes so assessed and unpaid, together with reasonable attorney's fees for the prosecution of such action, which action may be prosecuted in any county into, through, over or across which the line or route of any such association, co-partnership, company or corporation shall extend, or in any county where such association, company, copartnership or corporation shall have an office or agent for the transaction of business. In case such association, company, copartnership or corporation shall have refused to pay the whole of the taxes assessed against the same by said State Board of Tax Commissioners, or in case such association, company, copartnership or corporation shall have refused to pay the taxes, or any portion thereof, assessed to it in any particular county or counties, township or townships, such action may include the whole or any portion of the taxes so unpaid in any county or counties, township or townships, but the Attorney-General may, at his option, unite in one action the entire amount of the tax due, or may bring separate actions in each separate county or township, or join counties and townships, as he may prefer.

All collections of taxes for or on account of any particular county made in any such suit or suits shall be, by said Auditor of State, accounted for as a credit to the respective counties for or on account of which such collections were made by said Auditor of State at the next ensuing settlement with such county, but the penalty so collected shall be credited to the general fund of the State; and upon such settlement being made, the Treasurers of the several counties shall, at their next settlements, enter credits upon the proper duplicates in their officers [offices], and at the next settlement with such county report the

amount so received by him in his settlement with the State, and proper entries shall be made with reference thereto: . Provided, however, That in any such action the amount of the assessment fixed by said State Board of Tax Commissioners and apportioned to such county, or apportioned by County Auditor to any particular township, shall not be controverted. (R. S. 1897, 9018; R. S. 1894, 8488.)

Sec. 396. REPEALING CLAUSE—PROVISO. 12. Inasmuch as the provisions of this Act are intended to take the place of sections 68, 69, 70 and 71 of the Act entitled "An Act concerning taxation, repealing all laws in conflict therewith and declaring an emergency," approved March 6, 1891, such sections and each of them, and all other laws and parts of laws in conflict with this Act are hereby repealed: Provided, That all moneys now due the State, or which may become due on the first day of April, 1893, or at any other time, on account of any assessment or charge made against any of the joint stock associations, persons, companies or corporations on account of per cents. on gross or net earnings for the preceding year or years, and all penalties and charges thereon, growing out of any failure to make reports or payments, as now required by the provisions of the aforesaid repealed sections, shall be paid and collected under the provisions of said repealed sections, the same as if said sections were not repealed; and any suit brought for the recovery of such money, taxes or penalties shall be begun under the provisions of said repealed sections and prosecuted to final judgment thereunder, in all respects the same as if said sections were continued in full force; and it is hereby expressly provided that all the rights of the State accrued, or which may accrue, on the first day of April, 1893, on account of receipts for the preceding years are hereby saved from the operation of the aforesaid repealing clause. (R. S. 1897, 9019; R. S. 1894, 8489.)

ARTICLE 5—TAXATION OF DOMESTIC CORPORATIONS.

SEC.

397. Sworn statement.

398. Schedule.

SEC.

399. Failure to make schedule.

[1891, p. 199. Approved and in force March 6, 1891.]

Sec. 397. SWORN STATEMENT. 13. Every street railroad, water-works, gas, manufacturing, mining, gravel road, plank road, savings bank, insurance and other associations incorporated under the laws of this State (other than railroad companies and those heretofore specifically designated) shall, by its President or other proper accounting officer, between the first day of April and the first day of June of

the current year, in addition to the other property required by this Act to be listed, make out and deliver to the Assessor a sworn statement of the amount of its capital stock, setting forth particularly:

First. The name and location of the company or association.

Second. The amount of capital stock authorized, and the number of shares in which such capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if no market value, then the actual value of the shares of stock.

Fifth. The total amount of indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The value of all tangible property.

Seventh. The difference in value between all tangible property and the capital stock.

Eighth. The name and value of each franchise or privilege owned or enjoyed by such corporation.

Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the Auditor of State. In case of the failure or refusal to make report, such corporation shall forfeit and pay one hundred dollars for each additional day such report is delayed beyond the first day of June, to be sued and recovered in any proper form of action in the name of the State of Indiana, on the relation of the Prosecuting Attorney, such penalty, when collected, to be paid into the county treasury. And such Prosecuting Attorney in every case of conviction shall be allowed a docket fee of ten dollars, to be taxed as costs in such action. (R. S. 1897, 9021; R. S. 1894, 8491.)

Sec. 398. SCHEDULE. 74. Such statement shall be scheduled by the assessor, and such schedule, with the statement so scheduled, shall be returned by the Assessor to the County Auditor. The Auditor shall annually, on the meeting of the County Board of Review, lay before said Board the schedule and statements herein required to be returned to him, and said Board shall value and assess the capital stock and all franchises and privileges of such companies or associations in the manner provided in this Act; and the said Auditor shall compute and extend the taxes for all purposes on the respective amounts so assessed the same as may be levied on other property in such towns, cities or other localities in which such companies or associations are located. In all cases where the capital stock of any such corporation exceeds in value that of the tangible property listed for

taxation, then such capital stock shall be subject to taxation upon such excess of value; where no tangible property is returned or found, and the capital stock has a value, it shall be assessed for its true cash value. But where the capital stock or any part thereof is invested in tangible property, returned for taxation, such capital stock shall not be assessed to the extent that is so invested. Every franchise or privilege of any such corporation shall likewise be assessed at its true cash value. Where the full value of any franchise is represented by the capital stock listed for taxation then such franchise shall not itself be taxed; but in all cases where the franchise is of greater value than the capital stock, then the franchise shall be assessed at its full cash value, and the capital stock in such case shall not be assessed. (R. S. 1897, 9022; R. S. 1894, 8492.)

Sec. 399. FAILURE TO MAKE SCHEDULE. 75. In case of the failure or refusal of the person or persons, joint stock associations, companies or corporations, their officers, agents or employes specified in the preceding section to make and return the statements and reports therein provided for the Auditor of State shall make out such returns, statements and valuations from the best information he can obtain, and for that purpose he shall have power to summon and examine under oath any person whom he may believe to have knowledge thereof. And he shall add to such valuation twenty-five per centum thereon. (R. S. 1897, 9023; R. S. 1894, 8493.)

PART IV.

CHAPTER 6.

TELEGRAPH COMPANIES.

ART.

1. *Incorporation.*
2. *Powers and duties.*

ART.

3. *Secrecy.*

ARTICLE 1 — INCORPORATION.

SEC.

400. May be formed.
401. Articles of association.
402. Election of directors.
403. Officers—When incorporated.
404. Seal—Powers.
405. By-laws—Record-book—Evidence.

SEC.

406. Powers.
407. Railroad companies may be stockholders.
408. Assessments—Increase of capital.
409. By-laws as to stock.
410. Liability of stockholders.

[1867, p. 110. Approved and in force March 11, 1867.]

Sec. 400. MAY BE FORMED. 1. Any number of persons may form themselves into a corporation for the purpose of establishing, maintaining, and operating lines of electric telegraph within the State of Indiana. (R. S. 1897, 5681; R. S. 1894, 5497; R. S. 1881, 4162.)

Sec. 401. ARTICLES OF ASSOCIATION. 2. Any company formed under this Act shall comply with the following requirements, to wit: It shall unite in articles of association, setting forth the name it assumes, the points between which said company proposes to operate lines of telegraph, the amount of capital stock, and the number of shares into which it is divided. The names and places of residence of the stockholders, and the amount of stock taken by each, shall be subscribed to said articles of association; and the same, when signed by the stockholders, shall be acknowledged before some officer authorized

to take acknowledgments of deeds, and recorded in the office of the Recorder of each county through which the same shall run. (R. S. 1897, 5682; R. S. 1894, 5498; R. S. 1881, 4163.)

Sec. 402. ELECTION OF DIRECTORS. 3. Not less than three nor more than five directors shall be elected by the stockholders, who shall hold their office for one year and until their successors are elected and qualified. Notice of the election of directors shall be given by publication, for two weeks successively, in some newspaper published in the county in which the principal office of the company is located. (R. S. 1897, 5783; R. S. 1894, 5499; R. S. 1881, 4164.)

Sec. 403. OFFICERS — WHEN INCORPORATED. 4. Any board of directors elected under this Act may organize by choosing a president (who may also be the superintendent of said company), and a secretary (who may also be treasurer of the company), and such other officers as may be necessary to carry out the purposes of the organization; and from thence shall be known by its corporate name, and shall be capable of suing and being sued, pleading and being impleaded, defending and being defended, in any Court of competent jurisdiction. (R. S. 1897, 5684; R. S. 1894, 5500; R. S. 1881, 4165.)

Sec. 404. SEAL — POWERS. 5. Such company may have a common seal, and the same alter or change at pleasure. It shall have the power to acquire, by purchase or otherwise, hold, and convey such real and personal estate as may be necessary and proper for the purpose of erecting and keeping in repair its lines of telegraph and the buildings requisite for their operation. Said corporation may continue for a term not exceeding fifty years. Such corporation shall have power to acquire such real estate and rights-of-way as may be necessary for the uses and purposes herein contemplated, under the writ of assessment of damages, as fully as if the Act in relation to said writ were incorporated and made part hereof. (R. S. 1897, 5685; R. S. 1894, 5501; R. S. 1881, 4166.)

Sec. 405. BY-LAWS — RECORD-BOOK — EVIDENCE. 6. The board of directors shall provide a code of by-laws for the government of the corporation and the management of its business; and shall cause to be kept a fair record of its proceedings in a book provided for that purpose; and such record, or copies duly attested by the secretary, may be read in evidence when the interests of said corporation are concerned. (R. S. 1897, 5686; R. S. 1894, 5502; R. S. 1881, 4167.)

Sec. 406. POWERS. 7. All telegraph companies organized under this Act shall have power to lease or attach to other telegraph lines, by lease or purchase. (R. S. 1897, 5687; R. S. 1894, 5503; R. S. 1881, 4168.)

Sec. 407. RAILROAD COMPANIES MAY BE STOCKHOLDERS. 8. A railroad company may become a stockholder in any telegraph company. (R. S. 1897, 5688; R. S. 1894, 5504; R. S. 1881, 4169.)

Sec. 408. ASSESSMENTS — INCREASE OF CAPITAL. 9. The board of directors shall have power to make assessments, from time to time, on the stock, for the purpose of repairing or extending its lines; and shall also have the power, with the consent of a majority of the stockholders, of increasing its capital stock for the purpose aforesaid. (R. S. 1897, 5689; R. S. 1894, 5505; R. S. 1881, 4170.)

Sec. 409. BY-LAWS AS TO STOCK. 10. The board of directors shall, in its by-laws, determine the manner in which the stock of the company shall be held and conveyed. (R. S. 1897, 5690; R. S. 1894, 5506; R. S. 1881, 4171.)

Sec. 410. LIABILITY OF STOCKHOLDERS. 11. Every stockholder shall be liable in his individual capacity for any contract, debt, or engagement of such company, to an amount, over and above his stock, equal to the amount of the par value of his stock. (R. S. 1897, 5691; R. S. 1894, 5507; R. S. 1881, 4172.)

ARTICLE 2—POWERS AND DUTIES.

SEC.

- 411. May reduce capital stock.
- 412. Residence of directors.
- 413. Organizations legalized.
- 414. Duty as to dispatches.
- 415. Penalty.

SEC.

- 416. Negligence and disclosure—Damages.
- 417. Delivery of dispatches.
- 418. Railroads as stockholders or owners.
- 419. Contracts by telegraph.

[1853, p. 131. Approved and in force February 1, 1853.]

Sec. 411. MAY REDUCE CAPITAL STOCK. 2. Any of said companies, through its board of directors, with the consent of a majority of the stockholders, shall have power to reduce its capital stock to any amount not below the actual cost of construction. (R. S. 1897, 5692; R. S. 1894, 5508; R. S. 1881, 4173.)

Sec. 412. RESIDENCE OF DIRECTORS. 3. The officers and directors of said telegraph companies shall hereafter be elected

from among the stockholders residing in this State, or at some point in any of the adjoining States where any of said companies shall have a telegraph station. (R. S. 1897, 5693; R. S. 1894, 5509; R. S. 1881, 4174.)

Sec. 413. ORGANIZATIONS LEGALIZED. 4. All irregularities or defects in the organization of said telegraph companies are hereby legalized: Provided, That this section shall not be construed in such a manner as to prejudice the rights of citizens of this State, nor in such a manner as to allow such companies to institute any suit or suits against the inhabitants of this State which they are not now allowed to institute by the laws of this State. (R. S. 1897, 5694; R. S. 1894, 5510; R. S. 1881, 4175.)

1. Section 4176 of R. S. 1881 was repealed by the two following sections: Western Union Telegraph Company vs. Brown, 108 Ind. 538; Western Union Telegraph Company vs. Swain, 109 Ind. 405.

[1885, p. 151. Approved and in force April 8, 1885.]

Sec. 414. DUTY CONCERNING DISPATCHES. 1. Every telegraph company with a line of wires wholly or partly within this State, and engaged in doing a general telegraphic business, shall during the usual office hours receive dispatches, whether from other telegraph lines or other companies, or individuals, and shall, upon the usual terms, transmit the same with impartiality and in good faith, and in the order of time in which they are received, and shall in no manner discriminate in rates charged or words or figures charged for or manner or conditions of service between any of its patrons, but shall serve individuals, corporations and other telegraphic companies with impartiality: Provided, however, That arrangements may be made with the publishers of newspapers for transmission of intelligence of general and public interest out of its order, and that communication for and from officers of justice shall take precedence of all others. (R. S. 1897, 5695; R. S. 1894, 5511.)

Sec. 415. PENALTY. 3. Any person or company violating any of the provisions of this Act shall be liable to any party aggrieved in a penalty of one hundred dollars for each offense, to be recovered in a civil action in any Court of competent jurisdiction: Provided, Nothing in this Act shall be construed to take away or abridge the right of such aggrieved party to appeal to a Court of equity to prevent such violations or discriminations by injunction or otherwise. (R. S. 1897, 5696; R. S. 1894, 5512.)

[1 R. S. 1852, p. 481. Approved May 13, 1852. In force May 6, 1853.]

Sec. 416. NEGLIGENCE AND DISCLOSURE — DAMAGES.

2. Telegraph companies shall be liable for special damages occasioned by failure or negligence of their operators or servants, in receiving, copying, transmitting, or delivering dispatches, or for the disclosure of the contents of any private dispatch to any person other than to him to whom it was addressed or his agent. (R. S. 1897, 5697; R. S. 1894, 5513; R. S. 1881, 4177.)

Sec. 417. DELIVERY OF DISPATCHES. 3. Such companies shall deliver all dispatches, by a messenger, to the persons to whom the same are addressed, or to their agents, on payment of any charges due for the same: Provided, Such persons or agents reside within one mile of the telegraphic station or within the city or town in which such station is. (R. S. 1897, 5698; R. S. 1894, 5514; R. S. 1881, 4178.)

Sec. 418. RAILROADS AS STOCKHOLDERS OR OWNERS.

4. A railroad company may construct a telegraph to connect two or more points on its railroad. And if such railroad company entirely own such telegraph lines, it shall not be bound to telegraph for the public, unless it undertakes to do so. (R. S. 1897, 5699; R. S. 1894, 5515; R. S. 1881, 4179.)

Sec. 419. CONTRACTS BY TELEGRAPH. 5. Contracts made by telegraph, between two or more persons, shall be considered as contracts in writing. (R. S. 1897, 5700; R. S. 1894, 5516; R. S. 1881, 4180.)

ARTICLE 3—SECRECY.

SEC. 420. Disclosing contents of telegram.

[1881, p. 174. Approved April 14, 1881. In force September 19, 1881.]

Sec. 420. DISCLOSING CONTENTS OF TELEGRAM. 218. Whoever, being an operator, clerk, servant, or messenger of any telegraph company, discloses the contents of any dispatch or message sent or received from any office of such company, except to a Court of justice or to a person authorized to know the same, shall be fined not more than five hundred dollars nor less than ten dollars. (R. S. 1897, 2284; R. S. 1894, 2248; R. S. 1881, 2128.)

ARTICLE 4—TAXATION.

SEC. 421. Taxing companies.

[1893, p. 374. Approved and in force March 6, 1893.]

Sec. 421. TAXING COMPANIES. 1. Any joint stock association, company, copartnership or corporation, whether incorporated under the laws of this State or of any other State, or of any foreign nation, engaged in transmitting to, from, through, in or across the State of Indiana, telegraphic messages shall be deemed and held to be a telegraph company, and every such telegraph company shall, annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement verified by the oath of the officer or agent of such company making such statement with reference to the first day of April next preceding, showing:

First. The total capital stock of such association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation and subject to local taxation within the State, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such association, company, copartnership or corporation, situate outside the State of Indiana and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages upon the whole or any of its property, together with the dates and amounts thereof.

Eighth. (a) The total length of the lines of said association or company.

(b) The total length of so much of their lines as is outside the State of Indiana.

(c) The length of the lines within each of the counties and townships within the State of Indiana. (R. S. 1897, 9008; R. S. 1894, 8478; see Secs. 389 to 396.)

PART V.

CHAPTER 7.

CORPORATIONS—TELEPHONE COMPANIES.

SEC.

- 422. May be formed.
- 423. Articles of association.
- 424. When incorporated.
- 425. Election of directors—Term.
- 426. Principal office—Officers.
- 427. By-laws—Records—Evidence.
- 428. Seal—Powers.

SEC.

- 429. Powers.
- 430. Railroads may be stockholders.
- 431. Liability.
- 432. Stock.
- 433. Liability of stockholders.
- 434. Service to be impartial.
- 435. Disclosing messages.

[1881 S., p. 698. Approved and in force April 7, 1881.]

Sec. 422. MAY BE FORMED. 1. Any number of persons may form themselves into a corporation for the purpose of establishing, maintaining, and operating telephones, telephone lines, and telephone exchanges within the State of Indiana, by complying with the requirements of this Act. (R. S. 1897, 5701; R. S. 1894, 5517; R. S. 1881, 4181.)

Sec. 423. ARTICLES OF ASSOCIATION. 2. They shall join in the execution of articles of association, setting forth the name assumed, the counties or places within which such company proposes to establish, maintain, and operate telephones and telephone exchanges, the amount of capital stock, and the number of shares into which it is divided. The stockholders who incorporate such association shall each sign such articles, giving his place of residence and the amount of stock subscribed for by him, five of whom (if there be so many signers) shall acknowledge the execution of such articles before some officer authorized to take acknowledgments of deeds, and the articles shall thereupon be recorded in the office of the Secretary of State. (R. S. 1897, 5702; R. S. 1894, 5518; R. S. 1881, 4182.)

Sec. 424. WHEN INCORPORATED. 3. As soon as such articles are filed for record in the office of the Secretary of State, such company shall be deemed and held to be a corporation, by the name specified in the articles of association, and in its corporate name shall be capable of suing and being sued, pleading and being impleaded, defending or being defended in any Court of competent jurisdiction. (R. S. 1897, 5703; R. S. 1894, 5519; R. S. 1881, 4183.)

Sec. 425. ELECTION OF DIRECTORS — TERM. 4. The stockholders shall elect, from among their number, not less than three nor more than nine directors, a majority of whom shall be residents of this State, who shall hold office for one year and until their successors are elected. Notice of the election of directors shall be given by publication, for two weeks successively, in some newspaper published in the county in which the principal office is located. (R. S. 1897, 5704; R. S. 1894, 5520; R. S. 1881, 4184.)

Sec. 426. PRINCIPAL OFFICE—OFFICERS. 5. The principal office of said company shall be maintained in this State. The board of directors shall organize within ten days after said election, by choosing one of its members president (who may also be superintendent) and a secretary and a treasurer (which two offices may be filled by the same person), and such other officers as may be necessary. (R. S. 1897, 5705; R. S. 1894, 5521; R. S. 1881, 4185.)

Sec. 427. BY-LAWS — RECORDS — EVIDENCE. 6. The board of directors shall adopt by-laws for the government of the corporation and the management of its business; and shall cause to be kept a full and complete record of its proceedings in a book provided for that purpose; and such record, or copies duly proved, may be read in evidence when the interests of the corporation are concerned. (R. S. 1897, 5706; R. S. 1894, 5522; R. S. 1881, 4186.)

Sec. 428. SEAL — POWERS. 7. Such company may have a common seal, which may be altered at pleasure; and shall have power to acquire, by purchase or otherwise, and hold and convey, such real and personal estate as may be proper for the purpose of erecting or maintaining its lines of telephone and the appliances and buildings requisite for its business; and shall have the right to acquire such real estate and rights-of-way, as may be necessary for its business, under the writ of assessment of damages, as fully as if the Act in relation to said writ were incorporated in this Act and made part of the same.

The life of a corporation organized under this Act shall be limited to fifty years. (R. S. 1897, 5707; R. S. 1894, 5523; R. S. 1881, 4181.)

Sec. 429. POWERS. 8. Any telephone company organized under this Act shall have power to lease, or attach to other telephone lines or exchanges by lease or purchase. (R. S. 1897, 5708; R. S. 1894, 5524; R. S. 1881, 4188.)

Sec. 430. RAILROADS MAY BE STOCKHOLDERS. 9. A railroad company may become a stockholder in any telephone or telephone exchange company. (R. S. 1897, 5709; R. S. 1894, 5525; R. S. 1881, 4189.)

Sec. 431. LIABILITY. 10. A telephone company shall not be liable for errors in messages or communications, except when such messages or communications are transmitted under contract directly by the agents or employes of the company; nor shall it be liable for any special damage sustained by a failure of its instruments to work, beyond a rebate of the rent charged for the time such instrument failed to work. (R. S. 1897, 5710; R. S. 1894, 5526; R. S. 1881, 4190.)

Sec. 432. STOCK. 11. The board of directors shall have power to make assessments, from time to time, on the stock, to the extent, in the aggregate, of its face value, for the purpose of repairing or extending its lines; and it may also, with the consent of a majority of the stockholders, increase the capital stock for the purpose aforesaid. It may also, in its by-laws, determine the manner in which the stock of the company shall be held and assigned. (R. S. 1897, 5711; R. S. 1894, 5527; R. S. 1881, 4191.)

Sec. 433. LIABILITY OF STOCKHOLDERS. 12. Every stockholder shall be liable, in his individual capacity, for any contract, debt, or engagement of such company to an amount, over and above his stock, equal to the face value of his stock. (R. S. 1897, 5712; R. S. 1894, 5528; R. S. 1881, 4192.)

[1885, p. 151. Approved and in force April 8, 1885.]

Sec. 434. SERVICE TO BE IMPARTIAL. 2. Every telephone company with wires wholly or partly within this State, and engaged in a general telephone business, shall within the local limits of such telephone companies' business supply all applicants for telephone connections and facilities with such connections and facilities without

discrimination or partiality, provided such applicants comply or offer to comply with the reasonable regulations of the company; and no such company shall impose any conditions or restrictions upon any such applicant that are not imposed impartially upon all persons or companies in like situation, nor shall such companies discriminate against any individual or company engaged in any lawful business, or between individuals or companies engaged in the same business, by requiring as a condition for furnishing such facilities that they shall not be used in the business of the applicant, or otherwise for any lawful purpose. (R. S. 1897, 5713; R. S. 1894, 5529.)

1. The Act of 1885 (p. 227) was repealed in 1889 (p. 49). It was a regulation of rates of telephone service.

[1883, p. 9. Approved February 13, 1883. In force June 5, 1883.]

Sec. 435. DISCLOSING TELEPHONE MESSAGES. 1. Any operator, clerk, servant, messenger, or employe of any telephone company doing business in this State who discloses the contents of any dispatch or message, or any conversation had between persons while using the line of any telephone company, except to a Court of justice or to a person entitled to know the same, shall be fined not more than five hundred dollars nor less than ten dollars. (R. S. 1897, 2285; R. S. 1894, 2249.)

Sec. 436. TAXING COMPANIES. 2. Every telephone company doing business in this State, whether incorporated under the laws of this State or of any other State, or of any foreign nation, shall, annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the first day of April next preceding, showing:

First. The total capital stock of such association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation and subject to local taxation within the State, and the location

and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such association, company, copartnership or corporation, situate outside the State of Indiana and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages upon the whole or any of its property, together with the dates and amounts thereof.

Eighth. (a) The total length of the lines of said association or company.

(b) The total length of so much of their lines as is outside the State of Indiana.

(c) The length of the lines within each of the counties and townships within the State of Indiana. (R. S. 1897, 9009; R. S. 1894, 8479; see Secs. 389 to 396.)

PART VI.

CHAPTER 8.

LIABILITY OF CORPORATIONS FOR PERSONAL INJURIES.

SEC.

437. Liability of corporations for injuries.

438. Damages commensurate with injury.

SEC.

439. Laws of other States.

440. Contracts of release of damages void.

[1893, p. 294. Approved and in force March 4, 1893.]

Sec. 437. LIABILITY OF CORPORATIONS FOR INJURIES. 1. Every railroad or other corporation, except municipal, operating in this State shall be liable in damages for personal injury, suffered by any employe while in its service, the employe so injured being in the exercise of due care and diligence, in the following cases:

First. When such injury is suffered by reason of any defect in the condition of ways, works, plant, tools and machinery connected with or in use in the business of such corporation, when such defect was the result of negligence on the part of the corporation, or some person entrusted by it with the duty of keeping such way, works, plant, tools or machinery in proper condition.

Second. Where such injury resulted from the negligence of any person in the service of such corporation, to whose order or direction the injured employe at the time of the injury was bound to conform, and did conform.

Third. Where such injury resulted from the act or omission of any person done or made in obedience to any rule, regulation or by-law of such corporation, or in obedience to the particular instructions given by any person delegated with the authority of the corporation in that behalf.

Fourth. Where such injury was caused by the negligence of any person in the service of such corporation who has charge of any signal, telegraph office, switch yard, shop, round-house, locomotive engine, or train upon a railway, or where such injury was caused by the negligence of any person, co-employe, or fellow-servant engaged in the

same common service in any of the several departments of the service of any such corporation, the said person, co-employee, or fellow-servant at the time acting in the place and performing the duty of the corporation in that behalf, and the person so injured obeying or conforming to the order of some superior at the time of such injury having authority to direct; but nothing herein shall be construed to abridge the liability of the corporation under existing laws. (R. S. 1897, 7425; R. S. 1894, 7083.)

1. Section two of this Act was repealed in 1895 (p. 148).

Sec. 438. DAMAGES COMMENSURATE WITH INJURY.

3. The damages recoverable under this Act shall be commensurate with the injury sustained, unless death results from such injury, when, in such case, the action shall survive and be governed in all respects by the law now in force as to such actions: Provided, That where any such person recovers a judgment against a railroad or other corporation, and such corporation takes an appeal, and, pending such appeal, the injured person dies, and the judgment rendered in the Court below be thereafter reversed, the right of action of such person shall survive to his legal representatives. (R. S. 1897, 7426; R. S. 1894, 7085.)

Sec. 439. LAWS OF OTHER STATES. 4. In case any railway corporation which owns or operates a line extending into or through the State of Indiana, and into or through another or other States, and a person in the employ of such corporation, a citizen of this State, shall be injured as provided in this Act, in any other State where such railroad is owned or operated, and a suit for such injury shall be brought in any of the Courts of this State, it shall not be competent for such corporation to plead or prove the decisions or statutes of the State where such person shall have been injured as a defense to the action brought in this State. (R. S. 1897, 7427; R. S. 1894, 7086.)

Sec. 440. CONTRACTS OF RELEASE OF DAMAGES VOID. 5. All contracts made by railroads or other corporations with their employees, or rules or regulations adopted by any corporation releasing or relieving it from liability to any employee having a right of action under the provisions of this Act are hereby declared null and void. The provisions of this Act, however, shall not apply to any injuries sustained before its taking effect, nor shall it affect in any manner any suit or legal proceedings pending at the time it takes effect. (R. S. 1897, 7428; R. S. 1894, 7087.)

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GENERAL RAILROAD LAWS

OF

MICHIGAN,

INCLUDING ALL LAWS AFFECTING RAILROADS PASSED BY THE LEGISLATURE OF

1875.

COMPILED AT THE OFFICE OF THE

COMMISSIONER OF RAILROADS.

LANSING:

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1875.

INTRODUCTORY.

The amendments made by the Legislature of 1875 to the general railroad laws of 1873, as well as the enactment by them, of several new laws bearing directly on railroad interests, have made it necessary that a new edition of the railroad laws should be issued. It has been intended to embrace in this compilation all the laws now in force which have a general application to railroad interests, as well as those of the special acts of the last few years whose force is not yet exhausted.

In the arrangement of this compilation, the amendatory acts themselves, of the last session of the Legislature, have not been inserted; it being deemed better to present the several laws as a complete whole, rather than to retain the old provisions and make the laws obscure by the insertion of the new ones. The amended sections are so designated in the side notes, with references to the number of the act as published in the Session Laws.

The amendments to the general railroad laws may be briefly summed up as follows:

Section 15 of the act relative to the duties, etc., of a Commissioner of Railroads, has been so modified as no longer to render compulsory the drawing, by the railroads of this State, of the cars of stock car-loaning companies.

Section 17, of the same act, defines more closely than did the old section, the powers of the Commissioner, and the duties of the railroad companies, relative to the stationing of flagmen and the erection of gates and bridges at highway and street crossings.

The amended sections of the general law of 1873 for the incorporation, etc., of railroad companies, are sections 3 and 12 of Art. II., and sections 1, 2, 4, 7, 13, and 15 of Art. IV.

Section 3 of Art. II. is so changed as to make the qualifications of stockholders voting thereunder conform to the requirements of section 1 of the same article.

Section 12 of Art. II. has been changed in its provisions relative to the announcement of stations, on passenger trains.

Section 1 of Art. IV., relative to the use of air-brakes, has been materially modified in its phraseology.

Section 2 of Art. IV. is so amended as to provide for the proper mainten-

ance of gates and bridges at highways and street crossings, after their erection by order of the Commissioner.

Section 4 of Art. IV. confers on the Commissioner the authority to prescribe the manner, material, and time within which gates shall be erected at highway and street crossings.

Section 7 of Art. IV. makes it the duty of railroad companies to furnish to their employés, of every grade, copies of its rules and regulations relative to their respective duties.

Section 13 of Art. IV. prescribes specially the manner in which trains shall signal their approach to highway and street crossings.

Section 15 of Art. IV. is so amended as to make the failure to close any gate or bars or other opening in the line of a railroad fence, immediately after passing through the same, a punishable offense.

Among the new provisions devised by the last Legislature is one so amending those sections of the compiled laws which define and provide for the punishment of burglary, as to include the breaking into railroad cars. A provision was also attached to section 7566, C. L., making it a punishable offense to enter a freight car for the purpose of obtaining free carriage therein.

The other new laws are: One to regulate the sale of tickets at special rates on special conditions; allowing railroad companies to run their own sleeping cars; to authorize the cutting of dangerous trees; to prohibit the use of kerosene, in any of its forms, for lighting passenger cars; and to require immediate notice to be given to the Commissioner of all accidents.

The measures for the aid of railroads, are the grant of authority to the different municipalities to provide for the payment of their aid bonds; and grants of land for three railroads in the Upper Peninsula,—from Mackinaw to Marquette; from L'Anse to Houghton; and through the Menominee iron range.

With a list of all the acts embraced, and a carefully prepared index to all the subjects contained therein, it is hoped that this compilation will prove a valuable guide for those interested in railroad affairs.

STEPHEN S. COBB,

Commissioner of Railroads.

Lansing, June, 1875.

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GENERAL RAILROAD LAWS.

AN ACT to provide for the appointment of a Commissioner of Railroads, and to define his powers, duties, and fix his compensation.

[Act No. 79, Session Laws of 1873.]

(1.) SECTION 1. *The People of the State of Michigan enact,* Commissioner of Railroads—
appointment and
term of office. That a commissioner, who shall be styled "Commissioner of Railroads," shall be appointed as follows, viz: Within ten days after this act shall take effect the Governor, by and with the consent of the Senate, shall appoint a person Commissioner of Railroads, who shall hold his office until the first day of January, in the year of our Lord one thousand eight hundred and seventy-five, and until his successor is appointed and qualified. At the next regular session of the Legislature, and every two years thereafter, the Governor, by and with the advice and consent of the Senate, shall appoint a Commissioner of Railroads, who shall hold his office for the term of two years from the first day of January in the year of his appointment and until his successor is appointed and qualified.

(2.) SEC. 2. No person shall be appointed as such commissioner Qualifications of. who is not an elector of this State, and who, at the time of his appointment, is in any way connected with any railroad corporation, or who is directly or indirectly interested in any stock, bond, or other property of, or is in the employ of, any railroad corporation; and no person appointed as such commissioner shall, during his term of office, become interested in any stock, bond, or other property of any railroad company, or in any manner be employed by or connected with any railroad corporation.

(3.) SEC. 3. The Governor shall have power to remove such commissioner and appoint another to fill the vacancy at any time in his discretion; but the reasons for such removal shall be laid before the Senate at the next regular or special session of the Legislature thereafter, and in case of a vacancy in the office of commissioner from any other cause, the Governor may appoint another person to fill the same. Removal of,
from office.

(4.) SEC. 4. Before entering upon the duties of his office, the person so appointed shall make, subscribe, and file in the office of the Secretary of State, an oath of office in the form prescribed by section one of article eighteen of the Constitution of this State, and shall enter into bonds with the people of the State of Michigan in the sum of ten thousand dollars, with sureties to be Oath and bond
of.

approved by the Governor, conditioned for the faithful performance of his duties.

Salary of.

Office—location
of.
Incidental
expenses of.

Clerk of.

(5.) SEC. 5. Said commissioner shall receive a salary of four thousand dollars per annum. He shall hold his office in the State building, at the city of Lansing. The incidental expense of his office, together with all actual cash outlay for railroad fares, shall be audited by the Board of State Auditors. He may employ a clerk to discharge such duties as he shall assign him, whose compensation shall be one thousand dollars per annum, which shall be paid to him monthly, on the certificate of the Commissioners on Railroads, and upon the warrant of the Auditor General.

Salary, how paid

(6.) SEC. 6. The salary of the commissioner shall be paid from the State Treasury in the same manner as salaries of other State officers are payable therefrom.

Railroad com-
panies to report
annually to the
Commissioner.

(7.) SEC. 7. Every railroad corporation incorporated or doing business in this State, or which shall hereafter become incorporated or do business under any general or special law of this State, shall, on or before the first day of May, in the year of our Lord one thousand eight hundred and seventy-three, and on or before the same day in each and every year thereafter, make and transmit to the commissioner appointed by virtue of this act, at his office in Lansing, a full and true statement, under oath, of the proper officers of said corporation, of the affairs of said corporation on the thirty-first day of December preceding, specifying;

List of particu-
lars to be report-
ed.

First, The amount of capital stock subscribed, and by whom;

Second, The names of the owners of its stock, the amounts owned by them respectively, and the residence of each stockholder so far as known:

Third, The amount of stock paid in, and by whom;

Fourth, The amount of its assets and liabilities;

Fifth, The names and place of residence of its officers;

Sixth, The amount of cash paid to the corporation on account of the original capital stock;

Seventh, The amount of funded debt;

Eighth, The amount of floating debt;

Ninth, The estimated value of the road bed, including iron and bridges;

Tenth, The estimated value of rolling stock;

Eleventh, The estimated value of stations, buildings, and fixtures;

Twelfth, The estimated value of other property;

Thirteenth, The length of single main track;

Fourteenth, The length of double main track;

Fifteenth, The length of branches, stating whether they have single or double tracks;

Sixteenth, The aggregate length of siding, and other tracks, not above enumerated;

Seventeenth, The number of miles run by passenger trains during the year preceding the making of the report;

Eighteenth, The number of miles run by freight trains during the same period, including the mileage of rented cars;

Nineteenth, The number of tons of through freights carried during the same time; List of particulars to be reported.

Twentieth, The number of tons of local freights carried during the same time;

Twenty-first, Its monthly earnings for the transportation of passengers during the same time;

Twenty-second, Its monthly earnings for the transportation of freight during the same time;

Twenty-third, Its monthly earnings from all other sources respectively during the same time;

Twenty-fourth, The amount of expense incurred in the running and management of passenger trains during the same time, including amounts paid for the use of palace and sleeping cars;

Twenty-fifth, The amount of expense incurred in the running and management of freight trains during the same time; also, the amount of expense incurred in the running and management of mixed trains during the same time;

Twenty-sixth, All other expenses incurred in the running and management of the road during the same time, including the salaries of officers; which shall be reported separately;

Twenty-seventh, The amount expended for repairs of road and maintenance of way, including repairs and renewal of bridges and renewal of iron during the same time;

Twenty-eighth, The amounts expended for improvements, and whether the same are estimated as part of the expenses of operating or repairing the road during the same time, and if either, which;

Twenty-ninth, The amount expended for motive power and cars during the same time;

Thirtieth, The amount expended for station houses, buildings, and fixtures during the same time;

Thirty-first, All other expenses for the maintenance of way during the same time;

Thirty-second, All other expenditures during the same time, either for management of road, maintenance of way, motive power and cars, or for other purposes;

Thirty-third, The rate of fare for passengers for each month during the same time; through and way passengers separately;

Thirty-fourth, The tariff of freights and special rates, showing each change of tariff and special rates during the same time; through and way freights separately;

Thirty-fifth, A copy of each published rate of fare for passengers, and tariff of freight, in force, or issued for the government of its agents during the same time;

Thirty-sixth, Whether the rate of fare and tariff of freights in such published lists are the same as those actually received by the corporation or its agents during the same time; if not, what were received;

Thirty-seventh, What express companies run on its road, on what terms and conditions, and the kind of business done by them;

Thirty-eighth, What freight and transportation companies run on its road, and on what terms;

Thirty-ninth, Whether such freight and transportation companies use the cars of the railroad corporation or the cars furnished by themselves;

Fortieth, Whether the freight or cars of such companies are given any preference in speed or order of transportation; and if so, in what particular;

Forty-first, What running arrangements it has with other railroad corporations, setting forth the contract for the same. And the said commissioner shall cause to be made suitable blanks at the expense of the State, and forward the same to such railroad corporations, upon which to make the reports required by this act;

Forty-second, The number of acres of land sold during the year, and the price received therefor, and the number of acres still owned by the company, not used for corporate purposes.

Additional questions.

(8.) SEC. 8. The said commissioner may make and propound to such railroad corporations any additional interrogatories relating to the duties of his office, relating to the management of their respective corporations, which shall be answered by such corporations in the same manner as those specified in the foregoing sections.

From whom reports are required.

(9.) SEC. 9. Sections seven and eight of this act shall apply to the president, directors, and officers of every railroad corporation now existing, or which shall hereafter be incorporated or organized in this State, and to every lessee, manager, and operator of any railroad within this State.

Commissioner to report annually to Governor.

Contents of report.

(10.) Said commissioner shall, on or before the first day of January in each year, and oftener if required, make a report to the Governor of his doings for the preceding year, or for the time intervening since his last report, containing such facts, statements, and explanations as will disclose the actual workings of the system of railroad transportation of freight and passengers, and its bearings upon the business prosperity, personal convenience, and safety of the people of the State, with such suggestions in relation thereto as to him may seem appropriate, and particularly whether a classification of freights can be made, and if so, in what manner; also whether any railroad corporations make any discrimination in the matter of freights between points intersected by competing lines and points not so intersected, and what change should be made in law to promote the interests of railroads and the public. He shall also, at such times as the Governor shall direct, or at any other time he (the said commissioner) shall deem advisable, examine any particular subject connected with the condition and management of railroads, and report to the Governor, in writing, his opinion and doings thereon, and his reasons therefor; all of which reports shall be laid before the Legislature, at its next regular or special session thereafter.

Commissioner to examine into condition and management of railroads.

(11.) SEC. 11. Said commissioner shall examine into the condition and management of all other matters concerning the business of railroads in this State, so far as the same affect or relate to

the interests of the public, and to the accommodation and security of passengers or persons doing business therewith; and whether such railroad companies, their officers, directors, managers, lessees, agents, and employes, comply with the laws of this State now in force, or which shall hereafter be in force, concerning them, and such other matters as he may deem important; and for such purpose said commissioner shall have the right to examine the books, papers, records, and vouchers of any railroad corporation in this State, in his discretion; and he shall have power to examine, under oath or affirmation, any and all directors, officers, managers, lessees, employes, or agents of any such railroad corporation, and any other persons, concerning any matter relating to the condition and management of the business of such corporation.

May examine books and papers, officers and employes of railroad corporations.

(12.) SEC. 12. In making any examination as contemplated in this act, or for the purpose of obtaining information pursuant to this act, said commissioner shall have the power to issue subpoenas, for the attendance of witnesses, and may administer oaths. In case any person shall willfully fail or refuse to obey such subpoena, it shall be the duty of the circuit court of any county, upon the application of the said commissioner, accompanied with proper proof, to make an order requiring such person, on a certain day, and at a certain place mentioned in said order, to be and appear before said commissioner in the county where such order is made, and give his testimony upon such matters as shall be lawfully required by said commissioner; and a copy of such order, certified by the clerk of said court, under the seal of said court, shall be personally served on such person by delivering the same to him, if he can be found, at least five days before the time mentioned in said order for him to appear before said commissioner; and in case personal service cannot be had, then the same may be served by leaving such copy at the last known place of residence of such person with some person of suitable age and discretion, at least five days before the time mentioned in said order for him to appear and testify before said commissioner; and if such person shall neglect or refuse to appear before said commissioner, and testify as required by said order, the said court may issue an attachment for such witness, and shall have power to punish for contempt, as in other cases of refusal to obey the process and orders of said court.

He may issue subpoenas for attendance of witnesses, etc.

Proceedings in case of refusal to obey subpoena.

(13.) SEC. 13. Any person who shall willfully neglect or refuse to obey the process of subpoena issued by said commissioner, and appear and testify as therein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished for each offense by a fine of not more than five hundred dollars, or by imprisonment not more than six months, or both, in the discretion of the court before which such conviction shall be had.

Penalty for such refusal.

(14.) SEC. 14. Whenever the commissioner shall have reasonable grounds to believe, either on complaint or otherwise, that any of the tracks, bridges or other structures of any railroad corporation of this State are in a condition which renders any of them dangerous or unfit for the transportation of passengers with reasonable safety, it shall be his duty to inspect and examine, or cause the

Commissioner to inspect railroad tracks, bridges, etc.

same to be examined and tested by some competent person or persons, and if, on such examination, in his opinion, any such tracks, bridges, or other structures or works are unfit for the transportation of passengers with reasonable safety, it shall be his duty to give to the superintendent, or other executive officer of the corporation working or operating said defective track or bridge or other structure, notice of the condition thereof, and of the repairs necessary to place the same in a reasonably safe condition. He may also order and direct the rate of speed of passing trains over such dangerous or defective track, bridge, or other structure, until the said repairs are made, and the time within which such repairs shall be made by the company; and if any superintendent, or other executive officer aforesaid, receiving such notice and order, shall willfully neglect for the period of two days after receiving such notice or order, to direct the proper subordinate officers of said corporation to run the passenger trains over such defective track, bridge, or other structure at the speed so prescribed by the commissioner, or if any engineer, conductor, or other employe of such company shall knowingly disobey such order, every such superintendent, officer, conductor, or employe, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum, not exceeding five hundred dollars, or be imprisoned in the State prison or jail of the county in which such conviction is had, for a period not exceeding one year, or both such fine and imprisonment, in the discretion of the court. Such superintendent, officer, conductor, or employe, may be prosecuted for such offense in any of the counties of this State through which said road may run. And the said commissioner shall have power to wholly stop the running of passenger trains over such defective track, bridge, or other structure, if said company shall neglect, or, without reasonable cause, fail to make such repairs within the time prescribed by said commissioner; and such company, for each and every day that ensues thereafter, and until said repairs are made, shall forfeit and pay to the State the sum of one hundred dollars.

May regulate rate of speed.

Penalty for neglect of Commissioner's instructions.

Where officer or employe may be prosecuted.

Commissioner may stop running of passenger trains in certain cases.

Forfeiture for neglecting to repair defective track, etc.

As amended by act No. 91 laws of 1875.

Interchange of cars and traffic—roads to draw cars of other roads.

Proviso—exceptions.

(15.) SEC. 15. Every corporation owning a road in use shall, at reasonable times and for a reasonable compensation, draw over the same the merchandise and cars of any other corporation or individual having connecting tracks: *Provided*, Such cars are of the proper gauge, and are in good running order, and properly loaded: *Provided further*, That nothing herein contained shall apply to the drawing of the cars of stock car-loaning companies. If the corporations cannot agree upon the stated periods at which the cars shall be so drawn, or the compensation to be paid, the said commissioner shall, upon petition of either party and notice to the other, and after hearing the parties interested, determine the rate of compensation and fix such periods, having reference to the convenience and interest of the corporation or corporations, and the public to be accommodated thereby, and the award of the commissioner shall be binding upon the respective corporations interested therein until the same shall have been revised, or alterations shall be made within one year after the award. Any rail-

road corporation refusing to comply with the provisions of this section shall be liable to a penalty not exceeding five hundred dollars.

(16.) SEC. 16. Where two or more railroads terminate at the same place, or connect in the same city or town, each shall, for a reasonable compensation, provide upon its road at such terminus or connection, suitable depot accommodations for the passengers or merchandise of the other road terminating at the same place or connecting with it, and shall receive the same in the manner it receives and delivers its own passengers and freight, and at the rates provided by law. If the corporations cannot agree upon the terms and conditions upon which such accommodations shall be furnished and the business transacted, said commissioner shall determine the rate of compensation to be paid for the depot accommodations required for the proper reception and delivery of such passengers and merchandise over, and other business upon and connected with said roads in which they are jointly interested, and the manner in which the business shall be done, and apportion to the corporations their respective shares of the expenses, receipts, and income of the same; and the award of the commissioner shall be binding upon the corporations.

Depots at junctions and joint termini.

See § (65) and subd. 9 of § (35).

(17.) SEC. 17. Whenever, in the opinion of the commissioner of railroads, the safety of the public would be more efficiently secured by stationing a flagman to signal trains where a highway or street is crossed by any railroad, when one railroad crosses or intersects another railroad, or by the building of a gate or bridge at such highway, street or railroad crossing or intersection, or street railway crossing, he shall direct the corporation or corporations owning or operating any such railroad or railroads to station a flagman, or to erect and maintain a bridge or gate at such crossing as the public safety may demand; and in case such flagman is directed to be stationed, or gate or bridge directed to be erected and maintained where one railroad crosses or intersects another, the expense thereof shall be borne jointly in equal proportions by the companies owning or controlling each of said railroads. Any corporation or corporations neglecting or refusing to construct and maintain such gate or bridge, or to maintain such flagman so directed as aforesaid, shall each forfeit for every such neglect or refusal the sum of one hundred dollars, and the further sum of ten dollars for every day which such neglect or refusal shall continue; and if said flagman shall neglect to display his flag, or perform such other duties as may be required of him by said commissioner, he shall for every such neglect be liable to a fine of twenty five dollars, and shall be liable for all damages sustained by any person by reason of such neglect, to be recovered in an action of tort: *Provided*, The corporation owning or operating any such railroad shall not be released from liability therefor, but shall be subject to the same liability at the option of the aggrieved party.

As amended by act No. 91 laws of 1875.

Flagmen at street crossings.

See §§ (72), (73), (74).

Gates or bridges at street crossings.

Neglect of company to erect and maintain.

Neglect of duty by flagman.

Proviso—liability of company.

(18.) SEC. 18. Every officer, agent, employe, or lessee of any railroad company who shall willfully neglect to make and furnish any report required in this act at the time herein required, or re-

Failure of companies to make report, or hindering the Com-

missioner in his duties—penalty for.

quired by said commissioner, or who shall willfully and unlawfully hinder, delay, or obstruct said commissioner in the discharge of the duties hereby imposed upon him, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not more than one thousand dollars, or be imprisoned not more than six months, or both, in the discretion of the court. And every railroad corporation, and every officer, agent, employe, lessee, or manager, of any railroad corporation shall be liable to a penalty of not more than five hundred dollars for every period of ten days it or he shall willfully neglect or refuse to make such report.

Prosecution for violation of railroad laws.

(19.) SEC. 19. Whenever it shall come to the knowledge of such commissioner, either upon complaint or otherwise, or he shall have reason to believe that any law or laws pertaining to railroads have been or are being violated, he may, if he deem it expedient, prosecute, or cause to be prosecuted, all corporations or persons guilty of such violation. In order to enable said commissioner to perform his duties under this act, it is hereby made his duty, at least once in each year, to visit each county in the State in which is or shall be located a railroad station, and personally examine into the management of such railroad or railroads.

Commissioner to visit railroad stations.

Attorney General and prosecuting attorneys to prosecute at Commissioner's request.

(20.) SEC. 20. It is hereby made the duty of the Attorney General of this State, and the prosecuting attorney in every county through which any railroad may run, on the request of said commissioner, to institute and prosecute any and all suits and proceedings which shall be directed by said commissioner for a violation of this act, or any law of this State concerning railroad corporations, or their officers, employes, operators, lessees, or agents of any such railroad corporations.

Prosecutions, and moneys arising therefrom.

(21.) SEC. 21. All such prosecutions shall be in the name of the people of the State of Michigan; and all moneys arising therefrom, except fines, shall be paid into the State Treasury by the sheriff or other officer collecting the same; and all fines shall be paid to the treasurer of the county where the conviction is had by the officer collecting the same; and the prosecuting attorney who shall prosecute under this act shall receive for his compensation, from the State Treasurer, a sum equal to twenty per cent of the amount recovered, whether the same be a penalty or a fine: *Provided*, This act shall not be construed as to prevent any person from prosecuting any *qui tam* action as is or may be authorized by law, and of receiving such part of the amount recovered in such *qui tam* action as is or may be provided by law; but a recovery in any such action shall be a bar to any other prosecution for the same offense.

Compensation of prosecuting attorneys.

Qui tam actions not barred.

Suit for private damages not barred.

(22.) SEC. 22. This act shall not be so construed as to waive or affect the right of any person injured by the violation of any law in regard to railroad corporations to sue or prosecute for his private damages in any manner allowed by law.

(23.) SEC. 23. This act shall take immediate effect.

Approved April 10, 1873.

AN ACT to revise the laws providing for the incorporation of railroad companies, and to regulate the running and management, and to fix the duties and liabilities of all railroad and other corporations owning or operating any railroad in this State.

[Act No 198, Session Laws of 1873.]

ARTICLE I.

ORGANIZATION.

(24.) SECTION 1. *The People of the State of Michigan enact,* Number necessary to organize.
 That it shall be lawful for any number of persons, not less than seven, to organize themselves into a corporation for the purpose of constructing, operating, and maintaining a railroad, railroad bridge, or railroad tunnel; and for such purpose such persons shall subscribe articles of association, in which shall be set forth the name of the corporation; the number of years the same is to be continued; the amount of capital stock of said company, which shall not be less than four thousand dollars per mile of road constructed, or proposed to be constructed, with flat-bar rail, or with a gauge not exceeding three feet six inches in width, and not less than eight thousand dollars per mile of road constructed, or proposed to be constructed, of "T" rails with gauge exceeding three and one-half feet in width, and not less than one-half the estimated cost of any such bridge or tunnel; the number of shares of which the stock shall consist, which shall be the amount of one hundred dollars each; the number of directors, which shall not be less than five nor more than fifteen, and their names; the places from and to which, and the name of each county into or through which it is, or is intended, to be constructed, and its length as near as may be. Each subscriber to such articles of association shall set opposite his name, his place of residence, and the number of shares of stock by him subscribed. Whenever one thousand dollars per mile of such railroad, or one-half the estimated cost of such bridge or tunnel, shall have been subscribed upon such articles of association, and five per cent of the amount thereof shall have been paid in to the directors named in such articles, in good faith, in cash, and an affidavit shall have been made and attached thereto by any two of said directors, that said amount has been subscribed, and said amount of five per cent paid in, in good faith, in cash, as before provided, such articles of association shall be filed in the office of the Secretary of State, and thereupon the persons who have subscribed such articles, and all other persons who shall from time to time thereafter subscribe to or become the holders of the capital stock of said corporation, in the manner to be provided in its by-laws, shall be a body corporate, by the name specified in such articles, and shall be capable of suing and being sued, and may have a common seal, and may make and alter the same at pleasure, and be capable in law of purchasing, holding, and conveying any real and personal property whatever necessary for the construction, maintenance, and operation of said railroad, and for the erection of all necessary buildings, yards, and appurtenances for the use of the same. Articles of association, what to set forth.
Amount of capital stock.
Amount of each share.
Number of directors.
Subscriber's name, residence, and subscription.
When articles to be filed.
Place of filing.
Body corporate.

Mortgage sale of
railroads.

See §§ (62,) and
(63.)

Purchasers may
organize a corpo-
ration.

Rights and pow-
ers thereof.

Organization
formed under
certificate of
purchasers.

Certified copy of
certificate shall
be evidence of
organization.

(25.) SEC. 2. In case of the foreclosure and sale of any railroad, or part of any railroad, under any trust deed, or mortgage given to secure the payment of bonds sold to aid in its construction and equipment, or for other cause authorized by law, it shall be competent and lawful for the parties who may become the purchasers, and such others as they may associate with themselves, to organize a corporation for the management of the same, and issue stock in the same in shares of one hundred dollars each, to represent the property in said railroad; and such corporation when organized shall have the same rights, powers, and privileges, as are or may be secured to the original company whose property may have been sold under and by virtue of such mortgage or trust deed. Such organization may be formed by virtue of a declaration or certificate of the purchasers at the sale under said mortgage or trust deed, which shall set forth the description of the property sold, and the date of the deed under which it was sold, or of the decree of the proper court, if it shall have been sold by virtue of a decree of any court; and with such description of the parties to the deed or suit as may identify the one or the other, or both; the time of the sale, and the name of the officer who sold the same; and also the purchasers, and the amount paid, and the stockholders to whom stock is to be issued, and the amount of the capital stock, and the name of the new corporation, and such other statements as may be found requisite to make definite the corporation whose property may have been sold, and the property sold, as well as the extents, and rights, and property of the new company; which said certificate or declaration shall be signed by all of the said purchasers, and shall be addressed to the Secretary of State; and being filed and recorded in his office, the said corporation shall become complete, with all the powers and rights secured to railroad companies under this act, to all the provisions of which, and amendments thereto, it shall be subject, and a certified copy of the said certificate or declaration shall be *prima facie* evidence of the due organization of said company.

ARTICLE II.

CORPORATE POWERS AND DUTIES OF DIRECTORS.

Corporate pow-
ers vested in
board of
directors.

Qualifications of
directors and
those entitled to
vote for same.

Election of pres-
ident.

Unsubscribed
stock—disposi-
tion of.

Employees—ap-
pointment of.

(26.) SEC. 1. All of the corporate powers of any such corporation shall be and are hereby vested in the board of directors, except as may be herein otherwise provided. No person except a stockholder shall be a director of said corporation, and no stockholder shall be entitled to vote for directors, or for any other purpose, who shall be in arrears in the payment of any assessment made on his subscription to stock. The president of said corporation shall be elected by the directors from their own number. The board of directors are hereby authorized and required to provide by by-laws for the disposition of its unsubscribed capital stock, and may provide for the election or appointment of agents or employees of said company, and may require of them security for the faithful performance of their duties, and for the general man-

agement of the business and affairs of said company. At all elections for directors and meetings of stockholders, each stockholder shall be entitled to cast, in person or by proxy, one vote upon each share of stock owned or held by him for ten days previous to such election or meeting, and a majority of all votes cast shall be requisite to an election, or for the determination of any question voted upon. A majority of the directors shall constitute a quorum for the transaction of business by the board of directors. In case of any vacancy in the board of directors, such vacancy may be filled by the remaining directors until the next election of directors.

Each share of stock entitled to a vote.

Quorum.

Vacancy in board, how filled.

(27.) SEC. 2. It shall be lawful for any company organized under this act, or under any former act for the incorporation of railroads, upon a vote of its stockholders holding two-thirds of its subscribed stock, at any meeting thereof, to alter and amend its articles of association so as to change the general route of said railway, or to extend the length of the line thereof, from either or both of its termini, or to extend any branch or branches from any point on the same, or to change the gauge of its road, or in any other respect not inconsistent with the provisions of this act, as it may determine, and upon such vote said company may make articles amendatory of their original articles, which shall be signed and certified by the president and secretary of said company, and under its corporate seal; and when the same shall be so signed, sealed and certified and filed with the Secretary of State, they shall have the same force and effect as though such alterations or amendments had been included in, and made a part of, the original articles of association. Articles of association filed in pursuance of this act, with all such subsequent alterations and amendments thereof, and the affidavits annexed thereto, shall be forthwith recorded by the Secretary of State, in a book to be provided by him for that purpose at the expense of the company filing the same, and whenever any articles of association shall be filed as above provided, the company filing the same may at once proceed to construct, operate, and maintain its railroad or any section or portion thereof, and to exercise its powers and privileges, and also to assess, levy, and collect such assessments upon such stock as at that time, and from time to time, may be subscribed for such purpose as said company shall determine. A copy of any articles of association, with a copy of the affidavit annexed thereto, as well as of any articles amendatory thereof, filed in pursuance of this act or of the record thereof, certified by the Secretary of State, under the seal of the State, to be a copy, shall in all courts and places be *prima facie* evidence of the matters therein stated, and of the genuineness of the signatures thereto, and of the incorporation of said company, as well as the articles amendatory thereof.

Amendment to articles of association.

Articles with amendments, etc., where recorded.

When company may proceed to exercise its franchises.

Certified copies evidence in court, etc.

(28.) SEC. 3. At any meeting of stockholders for the election of directors, it shall be lawful for the stockholders to classify the directors in three equal classes, as near as may be, one of which classes shall hold their office for one year, one for two years, and one for three years, and until their successors are respectively elected; and at all subsequent elections directors shall be elected

As amended by Act No. 61, laws of 1875.

Classification of directors, their election and term of office.

for three years to fill the places made vacant by the class whose term of office shall expire at that time. In case no such classification shall at any time be made, the persons elected at any such meeting shall hold their office for one year, and until their successors shall be elected; and it shall be the duty of the directors to provide for by by-law and to call; and in case of their neglect so to do, a majority of the stockholders may call an annual election of directors, at such time and place as may be appointed, in some county in which the road is to, or shall run, and at which time and place there shall be a general meeting of the stockholders in person or by proxy. And a special meeting of the stockholders may be called at any time by the directors, or by the stockholders owning not less than one-fourth of the stock in value, by giving notice of such meeting as hereinafter provided. At least thirty days' notice of the time and place of every general or special meeting of the stockholders shall be given in one or more daily newspapers printed in the city of Detroit, and also in one or more newspapers printed in the county where the principal office of the company is situated, if it be not in said city: *Provided*, That such notice, when given by the stockholders, shall state the object of such meeting. Evidence of such notice may be perpetuated by the affidavit of any person having knowledge thereof, and at any meeting of the stockholders held pursuant to this act. The stockholders representing a majority in value of the stock may remove from office any of the directors, or other officer of the company, and elect others in their stead. And the president, and directors, and officers, and agents of the company, in the exercise of their respective powers and duties, shall at all times be governed by, and be subject to, such rules, regulations, and directions, as the stockholders holding a majority in value of the stock may adopt at such meeting (and at every such meeting it shall be competent for any stockholder to appear and vote by proxy as well as in person). If at any meeting of the stockholders, a majority in value of the stock, which by the provisions of section one of article two of this act, is entitled to vote, is not represented in person or by proxy, the same shall be adjourned by such as are present from day to day, not exceeding three days, without doing any business, when, if such majority do not appear and attend, the meeting shall be dissolved.

(29.) SEC. 4. At every annual meeting of stockholders it shall be the duty of the board of directors to exhibit a clear and full statement of the affairs of the company for the preceding year.

(30.) SEC. 5. The board of directors may, by resolution, require the subscribers to the capital stock to pay the amounts by them respectively subscribed, in such manner and in such installments as they may deem proper, and in case of neglect or refusal of any subscriber to pay any such installment, said company are hereby authorized to sue for and collect the same, and in case such neglect or refusal shall continue for sixty days after notice in writing to pay the same has been served on him personally, or by depositing the same in the postoffice, postage prepaid, properly di-

Special meetings
of stockholders.

Notice of general
or special meet-
ings.

Proviso—object
of meeting to be
stated in notice.
Evidence of no-
tice, how per-
petuated.

Removals from
office.

Majority of stock
to control.

Votes may be by
proxy.

Adjournments,
etc.

Directors to
make annual
report.

Collection of sub-
scription to cap-
ital stock.

Failure to pay
assessments to
work forfeiture
of stock.

rected to him at the postoffice nearest his usual place of residence, or in case execution issued on a judgment recovered for any such installment shall be returned unsatisfied, in whole or in part, said board of directors may declare such stock, and all previous payments or collections made thereon, forfeited, and the same shall be forfeited accordingly; and any forfeited stock shall be subject to sale by the company, as may be provided for by by-laws or resolutions of the directors.

(31.) SEC. 6. The stock of any such company shall be deemed Stock deemed personal estate. personal estate, and shall be transferable in the manner and under such restrictions and conditions as may be provided for by the by-laws, but any certificate of stock issued before payment in full, shall show on its face, or by indorsement, the amount paid thereon, and no share shall be transferred on the books of the company Transfer of stock. until the same shall be paid in full, without the consent of the board of directors.

(32.) SEC. 7. Every such company proceeding to construct a Map of route to be filed of record. part of its road into or through any county named in its articles of association, or which shall have been so constructed, shall make a map of such part of the route intended to be adopted by such company, or which shall have been adopted, which shall be certified by a majority of the directors and filed in the office of register of deeds of such county. The route so adopted, or any part thereof, Change of route. may be changed by the company as often as found expedient, before it has fully built its road thereon, and upon any such change, a new map, showing the new route adopted, shall be made, certified, and filed as aforesaid.

(33.) SEC. 8. If at any time after the location and use of the track, or any part thereof, of any company organized under the provisions of this act, it shall appear to the directors of said company that the line in some parts thereof may be improved, it shall be lawful for such directors from time to time to alter the line and cause a new map to be filed in the office of the register of deeds of the county in which such alteration is made, and when a new line is adopted, to take possession of the lands and property embraced in such new location that may be required for the construction and maintenance and operation of the road on such new line and the convenient accommodations appertaining to the same, either by agreement with the owners, or by such proceedings, as near as may be, as are authorized under the preceding provisions of this act, and use the same. Proceedings for changing route of railroad.

(34.) SEC. 9. Every such corporation shall possess the general General franchises of railroad companies. powers, and be subject to the liabilities and restrictions following, that is to say:

First, To cause such examinations and surveys for the proposed To make surveys, etc. railroad to be made as may be necessary to the selection of the most advantageous route for the road, and for such purposes, by its officers, agents, and servants, to enter upon lands or waters of any person or company, but subject to liability for all damages Liability for damages. which they shall do thereto;

Second, To receive, hold, and take such voluntary grants and

May receive grants of property.

donations of real estate and other property as shall be made to it to aid in the construction, maintenance, and accommodation of such road, but the real estate thus received by voluntary grant shall be held and used for the purposes of such grant only;

May purchase and hold property for constructing road, etc.

Third, To purchase, and by voluntary grants and donations receive and take, and by its officers, engineers, surveyors, and agents, enter upon and take possession of, hold, and use, all such lands and real estate, franchises, and other property, as may be necessary for the construction, maintenance, and accommodation of its railroad and stations, depots, and other accommodations; but the same shall not be appropriated until the compensation to be made therefor is agreed upon by the parties or ascertained as herein prescribed, be paid to the owners, or deposited as hereinafter directed, unless the consent of such owner be given therefor;

May lay out and construct road.

Fourth, To lay out its road, not exceeding one hundred feet in width, and to construct the same, and for the purpose of cuttings or embankments, and procuring stone, gravel, or other material, or for the purpose of draining its road-bed, to take, in the manner herein provided, such further lands adjacent and in the vicinity of its road, as may be necessary for the proper construction, operating, and security of its road;

May construct across streams, highways, etc.

Fifth, To construct its road upon or across any stream of water, water-course, private road, street, lane alley, or highway, and across any plank road, railroad, or canal, which the route of its road shall lie along, or intersect; but the corporation shall restore the stream, water-course, private road, street, alley, lane, highway, plank road, railroad, or canal to its former state, as near as may be, but shall not materially obstruct the navigation of any stream; and shall construct suitable road and street crossings for the passage of teams, by fitting down planks between and on each side of the rails of such road, the top of which shall be at least as high as the top of the rails of such road; and in case of the construction of such railway upon any public street, lane, alley, or highway, the same shall be on such terms and conditions as shall be agreed upon between the railroad company and the common council of any city, or the village board of any village, or the commissioners of highways of any township in which the same may be; but such railway shall not be constructed upon any public street, lane, alley, highway, or private way, until damages and compensation be made by the railroad company therefor to the owner or owners of property adjoining such street, lane, alley, highway, or private way, and opposite where such railroad is to be constructed, either by agreement between the railroad company and each owner or owners, or ascertained as herein prescribed for obtaining property or franchises for the purpose of its incorporation, to be paid to the owner thereof, or deposited as hereinafter directed;

Compensation to adjacent owners.

May unite with other railroads, etc.

Sixth, To cross, join, and unite its railroad with any other railroad, now or hereafter constructed under any law whatever, at any point on its route, and upon the grounds of such other railroad, now or hereafter constructed, with the necessary turnouts, sidings, and switches, and other accommodations and conveniences in

furtherance of the objects of its connections; and to make all such business arrangements as said companies may agree upon. And every company whose railroad shall be intersected by any other railroad, shall unite with the owners of such other railroads in forming such intersections and connections, and grant facilities for the same, as hereinafter provided;

See § (61.)

Companies shall unite to form connections.

Seventh, To take, transport, carry, and convey persons and property on their said road by the force and power of steam, animals, or any mechanical power, or by any combination of them, and to receive tolls and compensation therefor;

Transportation of persons and property.

Eighth, To erect and maintain all necessary and convenient buildings, stations, depots, and fixtures and machinery for the accommodation and use of their passengers, freight, and business, and to obtain and hold all the lands necessary therefor;

Erection of depots, etc.

Ninth, To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor; but such compensation for transporting any passenger, and his or her ordinary baggage, not exceeding in weight one hundred pounds, shall not, except on railroads operating less than twenty miles of road, exceed the following prices,

May regulate time, manner, and compensation for transporting passengers and freight.

viz: for a distance not exceeding five miles, four cents per mile; for all other distances, not exceeding three cents per mile; and no fare shall be less than five cents, and that amount in any case may be charged and collected:

Limitation of rates.

Provided, That in the Upper Peninsula, five cents per mile may be charged and collected on all railroads:

Provide—rates in Upper Peninsula.

And provided, That the provisions of this act shall not apply to the Paw Paw railroad.

Paw Paw railroad exempted.

(35.) SEC. 10. Every such corporation shall furnish sufficient accommodation for the transportation of all such passengers and property as shall, within a reasonable time previous thereto offer, or be offered for transportation at the place of starting, and the junctions of other railroads, and at siding and at stopping places established for discharging and receiving way passengers and freight; and shall take, transport, and discharge such passengers and property at, from, and to such places, on the due payment of toll, freight, or fare, legally authorized therefor; and every such corporation shall transport merchandise, wood, lumber, and other property, and persons from the various stations upon said road, without partiality or favor, when not otherwise directed by the owner of said property, and with all practicable dispatch, and in the order in which such freight and property shall have been received, under a penalty for each violation of this provision, of one hundred dollars, to be recovered by the party aggrieved, in an action of debt against such corporation: *Provided,* That perishable or explosive freight and property shall have the preference over all other classes of merchandise. In case of the refusal by such corporation or agents so to take and transport any such passenger or property, as aforesaid, or to deliver the same, or either of them, without a legal or just excuse for such default, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit, or the penalty prescribed in this section, at the election of the party aggrieved.

Corporations to furnish accommodations for passengers and property,

and transport them impartially

under penalty.

Provide—explosive freight.

Liability for damages for refusal to transport passengers or property, etc.

Baggage checks. (36.) SEC. 11. A check shall be fixed to every parcel of baggage when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop, or fixture so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger; and if such passenger shall have paid his fare, the same shall be refunded by the company; and on producing said check, if his baggage shall not be delivered to him, he may recover the value of such baggage.

As amended by Act No. 95, laws of 1875.

Ticket office—when to be open.

Announcement of stations—manner of.

Penalty for failure.

Sale of unclaimed freight, baggage, etc.

Notice thereof.

Sale in case property is perishable.

(37.) SEC. 12. All railroad companies shall keep their ticket offices open for the sale of tickets at least twenty minutes immediately preceding the departure of all passenger trains from every regular passenger station from which any such passenger trains are to start from or to stop at, between the hours of seven o'clock in the morning and eleven o'clock in the evening; and the conductors of all such passenger trains shall announce, or cause to be announced, the name of the station in each passenger car of every such train, twice inside each passenger car of every such train, the door of said car being closed at the time of such announcement, within a reasonable time before the arrival of any passenger train at every station at which said train from notice given is to stop. At junctions, crossings, and points where trains leave in different directions, at or near the same time, the conductor of each train shall announce, or cause to be announced, distinctly, in each passenger car of his train, before starting, the direction in which his train is to go. For each violation of the provisions of this section, the railroad company whose employes do not comply with the provisions of this section in every respect, shall forfeit the sum of one hundred dollars for each violation of the same.

(38.) SEC. 13. Every company which shall have unclaimed freight, not perishable, or unclaimed baggage in its possession for a period of one year or more, may sell the same at public auction, and out of the proceeds may retain the charge of transportation and storage thereof, and the expense of advertising and sale thereof. Notice of such sale shall be published at least once in each week for six successive weeks previous to such sale, in a newspaper in each county through which said road runs, in which a newspaper is published, which notice shall specify the time and place of such sale, and also the name of the consignee of such freight or baggage, if the same is marked on the packages, and a general description of the same; and the expense of such advertising shall be a lien on such freight or baggage, in a suitable proportion, according to the value of each article, package or parcel, if more than one. In case such unclaimed freight or baggage shall be in its nature perishable, then the same may be sold as soon as may be, after giving notice of such sale as the nature of the case will permit, in the city, township, or village where the

same may be, not exceeding six weeks. Such company shall make a record of the balance of the proceeds of the sale, if any, of the freight or baggage owned by or consigned to the same person, as near as can be ascertained, and, at any time within two years thereafter, shall refund any surplus so retained to the owner of such freight or baggage, his heirs, executors, administrators, or assigns, on satisfactory proof of such ownership.

Surplus after
paying expenses,
when refunded.

(39.) SEC. 14. Any railroad company organized under this act, receiving freight for transportation, shall be entitled to the rights and be subject to the liabilities of common carriers, except as herein otherwise provided; but no such company shall be suffered to lessen or abridge its common law liability as a common carrier, unless by an agreement to be signed by both parties thereto.

Common car-
riers—rights and
liabilities of com-
panies as.

(40.) SEC. 15. Whenever any railroad company desires to acquire any right of way or real estate for the purpose of its incorporation, such company may, previous to or after proceedings are commenced for such purpose, tender to the owner or owners of said lands or premises, any sum of money which such company shall conceive sufficient amends or compensation for the same, together with the cost to the time of making such tender; and if it shall appear in the progress of such proceedings, or upon the assessment of damages, that the amount so tendered was sufficient to pay such damages or compensation, and the cost of the suit or proceedings up to the time of such tender, the corporation shall be entitled to recover all costs incurred subsequent to the time of such tender, including such attorney fee as may be allowed by the court; but if no such tender be made, or if the same is insufficient, the owner of the premises shall recover costs and an attorney's fee as aforesaid.

Tender of com-
pensation for
right of way.

See § (118.)

(41.) SEC. 16. In case any of the real estate required by said company for the purposes aforesaid is owned by a person insane, a minor, or otherwise incompetent and under guardianship, and such company and the guardian of such person shall agree upon a price for the same, and enter into a contract in writing therefor, the said guardian shall, upon the approval of the same by the probate court of the county in which the said real estate is situated, convey said real estate in accordance with the terms of such contract, to said railroad company, and the deed thereof shall be valid in law to convey the title of such person under guardianship to said company, in accordance with the terms of said contract.

Guardians' deeds
of real estate to
railroad compa-
nies.

(42.) SEC. 17. In case any railroad company is unable to agree for the purchase of any real estate, property, or franchises required for the purpose of its incorporation, it shall have the right to acquire the title to the same in the manner and by the special proceeding prescribed in this act; but there shall be no power, except for crossing, to take the track or rights of way of any other railroad company without the consent of said railroad company, except as hereinafter provided.

Acquisition of
real estate, etc.,
when price is
disputed.

(43.) SEC. 18. For the purpose of acquiring such title, such company may present a petition to any court of record for such county, praying for the appointment of three commissioners.

Proceedings
therefor begun
by petition.

Contents of petition.

Said petition shall be in the name of the company, and shall be signed by one of the directors, or the engineer, or the attorney of said company, on its behalf, and shall be verified by the oath of the person so signing the same, and shall contain the description of all the real estate, property, or franchises, or so much thereof as the company seeks to acquire under such petition in said county; and that said company is duly incorporated; that it has a railroad constructed, specifying the points from and to which the same is in operation, or that it is the intention of said company, in good faith, to construct, finish, and maintain a railroad from and to the places named for that purpose in its articles of association; that the capital stock of the company has been, in good faith, subscribed, as required by this act to organize such company; that the company has surveyed the route of its proposed road in said county, and made a map and survey thereof, by which said route is designated; and that it has located its said road according to such survey, and filed a certificate thereof, signed by a majority of the directors of said company, in the register's office of said county; that the property described in the petition is required for the purpose of constructing, operating, or repairing the road or its appurtenances, and that the taking thereof is necessary for public use, and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can with reasonable diligence be ascertained, who own, or have, or claim to own, or have estates or interests in said lands or property; and if any such persons are infants, their ages, as near as may be, must be stated; and if any of them are idiots, or persons of unsound mind, or are unknown, it must be so stated, together with such other facts and allegations as to incumbances or otherwise, as will be sufficient to show who have, or claim to have, interests in said lands, real estate, or property, and such other matters as the company may see fit to make. A copy of such petition, with a notice of the time and place, when and where the same will be presented to such court, must be served on all persons whose interests will be affected by the proceeding, at least ten days prior to the presentation of the same to the court, as follows, viz:

Service of petition.

To be upon responsible persons.

First, If the person on whom service is to be made resides in this State, and is not an infant, under the age of fourteen years, idiot, or person of unsound mind, service of a copy of such petition and notice must be made on him, or his agent, or attorney authorized to contract for the sale of real estate described in the petition, personally, or by leaving the same at the usual place of residence of such person, or agent, with some person of suitable age; and if he resides out of this State, but has such agent as aforesaid residing in this State, then such service may be made on such agent in the manner aforesaid, or upon him personally, out of or within this State; or it may be by publishing a notice stating briefly the object of the application, and giving a description of the land, interest therein, or property to be taken, and in some

paper published in the county in which said lands or property are situated, if there be one, and if not, then in some weekly paper published in the city of Detroit, once in each week for six weeks next previous to the presentation of the petition; and if the residence of such person or persons residing out of this State be known, a copy of such petition and notice shall be deposited in the postoffice at least thirty days previous to presenting such petition, directed to such person at his place of residence, as near as may be, postage prepaid;

Second, If any person on whom such service is to be made is a minor under the age of fourteen years, or an idiot, or person of unsound mind, and resides in this State, such service shall be made as aforesaid, on his guardian; or if none, then on the person who has the care of, or with whom such infant, idiot, or person of unsound mind resides;

Third, If the person on whom such service is to be made be unknown, or his residence unknown, then such service may be made by publication for six weeks in the same manner provided in the first subdivision of this section, and the court or judge shall appoint an attorney to appear for and protect the rights of any such person;

Fourth, In case any party to be affected by the proceeding is an infant, idiot, or person of unsound mind, and has no guardian, the said court, or the judge of said court, shall appoint a special guardian or committee to appear for and attend to the interests of such infant, idiot, or person of unsound mind, and all notices to be served in the progress of the proceeding may be served on such special guardian;

Fifth, In all cases not otherwise provided for, service of orders, notices, and other papers in the proceedings authorized by this act, may be made as the said court or judge may direct.

(44.) SEC. 19. Whenever the line or road of any company organized under this act shall be in the possession or use of any other railroad company, under any lease, contract, or agreement, for the building or operating the same, under the laws of this State, it shall be competent for the latter company, with the assent and in the name of the former company, to institute and prosecute proceedings for acquiring title to any land or property for the purposes and under the conditions mentioned in preceding sections. In such case the petition may be signed and verified by a director, engineer, or attorney of either company.

(45.) SEC. 20. On presenting such petition to said court or the judge thereof at chambers, with proof of service of a copy thereof, and due notice as aforesaid, all persons whose estate or interest are to be affected by the proceedings, may show cause against the prayer of the petition, and may disprove any of the facts alleged therein; and said court or judge shall hear the proofs and allegations of the parties; and if no sufficient cause is shown against granting the prayer of the petition, said court or judge shall make an order appointing three disinterested and competent freeholders as commissioners to ascertain and determine the necessity for

How upon minors and idiots.

How upon persons whose names or residences are unknown.

How upon minors, idiots, etc., not under guardianship.

In other cases.

Proceedings when road is in possession of another company.

Appointment of commissioners of appraisal.

Proviso—jury
may be had.

Impanelling of
same, etc.

taking such lands, franchises or other property, and to appraise and determine damages or compensation to be allowed to the owners and persons interested in the real estate or property proposed to be taken in such county for the purposes of the company; and such court, or the judge thereof, shall fix the time and place for the first meeting of such commissioners: *Provided*, That any person or persons, or company, whose estate or interest is to be affected by the proceedings may demand and have from such court, at the time of hearing of said petition, a jury of twelve freeholders of said county to ascertain and determine the necessity for taking such lands, franchises, or other property, and to appraise and determine the damages or compensation to be allowed therefor. Thereupon the court shall direct the sheriff or any constable of the county, to make a list, in writing, of twenty-four inhabitants of the county, qualified to serve as jurors in the courts of record in this State. Such sheriff or officer shall, before he proceeds to make such list, be sworn by the court or judge to select such persons according to his best judgment, and without favor or partiality to either party. From such list the person or persons demanding such jury may alternately strike off six names, and the railroad company six names, and in case of either of them refusing or neglecting to do so, the judge shall strike off from said list for the party so refusing or neglecting, so as to leave only twelve names thereon. Such court, or the judge thereof, shall issue a *venire* in the usual form, inserting therein the twelve names so remaining on said list, and requiring such jury to meet at the time and place appointed therefor by the court, which said *venire* may be served by the sheriff, any constable, or other proper officer of the county, as in other cases; and if at the time and place appointed by said court or judge for said jury to meet, any of the persons named as jurors do not attend, or if any named in the *venire*, or chosen as talesmen, shall be rejected in a challenge for cause (which right of challenge is hereby granted), it shall be competent for said court, or the judge thereof, to order the said sheriff or other officer to summon immediately as many competent persons as may be necessary, with the persons in attendance as jurors, to furnish a panel of twelve jurors; and if no jury be demanded on the part of any person mentioned in said petition, his or her right to the same shall be deemed to have been waived. In case any parcel of land is owned or occupied by parties having different interests or estates therein or in any part thereof, they may be united as respondents in respect to the same in the petition, and thereafter the proceedings touching the same shall be carried on as one suit. The demand of any one of the respondents for a jury shall be deemed to be a demand for all; and if they shall fail or neglect to unite in striking six names from the jury list, the judge shall strike off six names for them; and in such cases the jury shall not only determine the entire damages and compensation to be paid for the whole property taken, but shall, in their report, also justly and impartially apportion and award the amounts to be paid to the owner or owners of each estate in the land so taken.

(46.) SEC. 21. The commissioners shall take and subscribe the oath prescribed by article eighteen of the constitution. Any of them may issue subpoenas, administer oaths to witnesses, and a majority of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet, except by appointment of the court or judge, or by previous adjournment, they shall cause reasonable notice of such meetings to be given to the parties who are to be affected by their proceedings, or the attorneys, or agents of such parties. They may view the premises described in the petition, and shall hear the proof and allegations of the parties, and shall reduce the testimony, if any is taken by them, to writing, if requested to do so by either party, and after the testimony is closed in such case, and without any unreasonable delays, and before proceeding to the examination of any other claim, all being present and acting, shall ascertain and determine the necessity of taking and using any such real estate or property for the purposes described; and if they deem the same necessary to be taken, they shall ascertain and determine the damages or compensation which ought justly to be made by the company therefor to the party or parties owning or interested in the real estate or property appraised by them. They shall also determine and certify what sum ought to be paid to the general or special guardian of an infant, idiot, or person of unsound mind, or to said court, to be held for an unknown party in interest not personally served with notice of the proceedings and who has not appeared, for damages and cost or expenses and counsel fees. They shall make a report to said court or judge, signed by them, of the proceedings before them, if any, which may be filed with the clerk of the court, either in vacation or term time, or the probate court, as the case may be. Said commissioners shall be entitled to two dollars a day for each day they are engaged in the performance of their duties, to be paid in the first instance by the company. In case a jury shall have been demanded and ordered by the court, pursuant to section twenty-one of this article, the said jury shall proceed to ascertain and determine the necessity of taking and using any such real estate or property, and the damage or compensation to be paid by the company therefor, in the same manner and with like effect as is provided in this section in the case of commissioners, and as is further provided in said section twenty-one; but they shall all be present and act together during the proceedings, and before acting shall take and subscribe an oath that they will justly and impartially ascertain and determine the necessity of taking and using any such real estate or property for the purposes proposed; and if they deem the same necessary to be taken, will ascertain and determine the damages or compensation which ought justly to be made by said company to the owners of or persons interested in each particular description of real estate mentioned in said petition who have demanded said jury; and they shall be entitled to two dollars for each day they are engaged in the performance of their duties, to be paid in the first instance by the company. The said judge, or a circuit court commissioner

Duties and powers of commissioners of appraisal.

Fees of same.

Duties and powers of jury in the case.

Compensation of jury.

Judge may attend jury.

Jury shall have commissioners' powers.

Company may discontinue proceeding before report by paying costs and attorney fees.

Order of court on report being made.

Record of order.

When company may take possession of land.

Proviso—time for payment of damages, etc.

Appeals.

to be designated by him, may attend said jury, to decide questions of law and administer oaths to witnesses, and he may appoint the sheriff or other proper officer to attend and take charge of said jury while engaged in said proceedings. And the jury shall proceed to determine the amount of damages to be awarded, and shall have all the powers hereby conferred upon commissioners; and a report signed by the jury, where the judge is or is not in attendance, shall be valid and legal. At any time before the report of the jury or commissioners shall be made to the court it shall be competent for the company, after sufficient cause has been shown and with leave of the court, to discontinue all pending proceedings in any case and to institute new proceedings at any time thereafter; but the company in all such cases shall pay all the costs of such proceedings so discontinued, with an attorney fee, to be taxed as in cases at law.

(47.) SEC. 22. On such report being made by the commissioners or jury, the court, on motion, shall confirm the same on the next or any subsequent day when in session, unless for good cause shown by either party; and when said report is confirmed, said court shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate or property appraised, for which compensation is to be made, and shall also direct to whom the money is to be paid, or when and where it shall be deposited by the company. Said court, as to the confirmation of such report, shall have all the powers usual in other cases.

(48.) SEC. 23. A certified copy of the order so to be made shall be recorded in the office of the register of deeds for said county, in the book of deeds; and thereupon, on the payment or deposit by the said company of the sum to be paid as compensation for such land, franchise, or other property, and for costs, expenses, and counsel fees as aforesaid, and as directed by said order, the company shall be entitled to enter upon and take possession of and use the said land, franchise, and other property for the purpose of its incorporation; and all persons who have been made parties to the proceedings, either by publication or otherwise, shall be divested and barred of all right, estate, and interest in such real estate, franchise, or other property, until such right or title shall be again legally vested in such owner; and all real estate, or property whatsoever acquired by any company under and in pursuance of this act, for the purpose of its incorporation, shall be deemed to be acquired for public use: *Provided*, The said sum to be paid as damages, and compensation, and costs, expenses, and counsel fees as aforesaid, shall be paid by the company, or deposited as provided in this act, within sixty days after the confirmation of said report by the said court; and in case said company fail or neglect so to do, such failure or neglect shall be deemed as a waiver and abandonment of the proceedings to acquire any rights in said land or property. Within twenty days after the confirmation of the report of the commissioners or jury, as above provided for, either party may appeal, by notice in writing to the other, to the supreme

court, from the appraisal or report of the commissioners or jury; such notice shall specify the objections to the proceedings had in the premises, and the supreme court shall pass on such objections only, and all other objections, if any, shall be deemed to have been waived; such appeal shall be heard by the supreme court at any general or special term thereof, on notice thereof being given according to the rules and practice of the court. On the hearing of such appeal, the court may direct a new appraisal before the same or new commissioners or jury, in its discretion. The second report shall be final and conclusive upon all parties interested. If the amount of the compensation to be allowed is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited as the court shall direct; and in such case, all costs of the appeal shall be paid by the company; but if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid, and judgments therefor and for all costs of the appeal shall be rendered against the party so appealing. On the filing of the report, such appeal, when made by any claimant of damages, shall not affect the said report as to the right and interests of any party, except the party appealing; nor shall it affect any part of said report in any case, except the part appealed from; nor shall it affect the possession of such company of the land appraised; and when the same is made by others than the company, it shall not be heard except on a stipulation of the party appealing not to disturb such possession during the pendency of such proceedings.

New appraisal.

Final report.

Costs in appeals.

Effect of appeal on report and possession of land.

(49.) SEC. 24. If there are doubts about the title, or to whom the money, or any part of it, to be paid as compensation for the real estate or property taken belongs, the court may direct the money to be paid into the said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may in its discretion order a reference to ascertain the facts on which such determination and order are to be made.

Judge to decide adverse claims.

(50.) SEC. 25. The court shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper; also to appoint other commissioners in the place of any who shall die, or refuse, or neglect, or are unable to serve, or who may leave or be absent from the State.

Unknown parties in interest, etc.

(51.) SEC. 26. At any time after an attempt to acquire title by any railroad company by an appraisal of damages or otherwise, if it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect the same in the same manner as if no appraisal had been made, and at any stage of such new proceedings the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession of and use such real estate or other property during the pendency and until the final conclusion

Proceedings when title sought is found to be defective.

of such new proceedings; and may stay all actions or proceedings against any company, or any officer or workman of such company, on account thereof, on such company paying into court a sufficient sum, or giving security, as the court may direct, to pay the compensation therefor when finally ascertained; and in every such cause the party interested in such real estate or other property may conduct the proceedings to a conclusion if the company delays or omits to prosecute the same: *Provided*, Any railroad company which have heretofore entered upon, taken, occupied, and used any lands within this State for the purpose of their road, shall have the same right to acquire title to, or right of way over, said lands so taken by them, as if they had proceeded to acquire said title or right of way before having entered upon the same.

Proviso—roads already built may perfect title.

Acquiring title to State or municipal lands.

(52.) SEC. 27. If any such company shall, for its purposes aforesaid, require any land belonging to the State, or to any city, village, county, or town, the Commissioner of the State Land Office, and the city, village, county, and town officers respectively having charge of the said lands, may grant such lands to such company for a compensation which shall be agreed upon between them; or in case they cannot so agree, then such lands shall be appraised as in other cases. All petitions or notices, in cases when the State is the owner, shall be served on the Commissioner of the State Land Office; where a city or village is the owner, on the mayor or other chief executive officer; when a county is the owner, on the prosecuting attorney of such county; and when the township is the owner, on the supervisor of such township.

On whom petitions or notices served.

Company may build spur tracks or branches.

(53.) SEC. 28. Any company organized under this act may build such spur tracks or branches as may be found necessary to develop business along its line of road, as the board of directors may judge to be expedient, and for that purpose shall have the same powers and rights in all respects as are conferred upon it for the construction of the main line, and may subscribe to the capital stock of any other company organized under this act with the assent of such other company; and any railroad chartered or organized under any other law of this State, may subscribe to the capital stock of any company organized under this act, not having the same terminal points and not being a competing line, with the assent of the company to whose stock such subscription is made; and any company organized under this act may make any arrangement with any other railroad company, whether organized or incorporated under this act or any other act, for running its cars over the road of such other company, or for the working and operating of such other roads as said companies shall mutually agree upon; and any companies organized or incorporated under this or any other act whose lines are connected, may enter into any arrangements for their common benefits, consistent with and calculated to promote the objects for which they were created. All companies owning or operating such spur or branch railroad, or making any such contract or agreement with connecting or intersecting lines of railroad, shall furnish cars and transport freight over such spur, branch, or connecting road, at the same rates and subject to the

Powers and rights relative to same.

May take stock in other companies—See §§ (57) and (163.)

May arrange with other companies for running cars, etc.

Rates, etc., on branch roads and connecting lines.

same restrictions and regulations as shall be adopted for the transportation of freight upon the main line. All railroad companies in this State shall furnish equal facilities for the transportation of passengers and freight to all railroads that shall connect with or intersect its line of railroad, without discrimination in favor of or against any such connecting or intersecting line of road.

(54.) SEC. 29. Any railroad company in this State, forming a continuous or connecting line with any other railroad company, may consolidate with such other company, either in or out of this State, or partly within and partly without this State, into a single corporation: *Provided*, That no such companies owning parallel or competing lines shall be permitted to consolidate themselves into one corporation. The directors of said two or more corporations may enter into an agreement, under the corporate seal of each, for the consolidation of the said two or more corporations, prescribing the terms and conditions thereof; the mode of carrying the same into effect; the name of the new corporation, the number of the directors thereof, and the names of those who shall be the first directors, which shall be deemed and taken to be the first election of the directors of the consolidated company; which number shall not be less than five, nor more than fifteen; the time and place of holding the first election of directors after the consolidation, which time shall not exceed six months after such consolidation has been sanctioned by the stockholders of said two or more corporations, as hereinafter provided; the number of shares of capital stock in the new corporation; the amount of each share; the manner of converting the shares of capital stock in each of said two or more corporations into shares in such new corporation; with such other details as they shall deem necessary to perfect such consolidation of said corporations; and such new corporation shall possess all the powers, rights, and franchises conferred upon such two or more corporations; and shall be subject to all the restrictions and perform all the duties imposed by the provisions of their respective charters, or laws of organization, not inconsistent with the provisions of this act. Such agreement of the directors shall not be deemed to be the agreement of the said two or more corporations until after it has been submitted to the stockholders of each of said corporations separately, at a meeting thereof, to be called upon a notice by publication at least once in each week for four successive weeks, in one of the daily papers published in the city of Detroit, and some newspaper published in each county in this State through which said road runs, in which a newspaper shall be published; the first publication to be at least sixty days before the time specified for said meeting, and signed by the secretaries of each of said companies proposing to consolidate, stating the purpose and object of said meeting, and has been sanctioned by such stockholders by a vote of a majority in interest of the stockholders, in person or by proxy, each share of capital stock being entitled to one vote; and when such agreement of the directors has been so sanctioned by each of the meetings of the stockholders separately, in the manner above mentioned, then such

See subd. 9 of § (34.)
All railroads to furnish equal facilities, etc.

Railroad companies may consolidate.

Proviso—except competing lines.

Directors may agree upon consolidation.

What agreement shall contain.

Number of directors.

Time and place of holding first election.

Capital stock, shares of, etc.

Powers, rights, etc., of consolidated company.

When agreement of directors deemed agreement of corporation.

Notice of meeting of stockholders for concurrence.

Contents of notice.

Copy of agreement presumptive evidence of consolidation.

Proviso—tunneling or bridging certain waters.

Proviso—navigation not to be hindered.

When agreement is completed, filed, etc., the two corporations to be merged in one.

Rights, franchises, etc., of consolidated corporation.

Proviso—rights of creditors of railroad companies not impaired by consolidation.

Proviso—debts, liabilities, etc., to attach to consolidated corporation.

agreement of the directors shall be deemed to be the agreement of the said two or more corporations. A copy of said contract or consolidation agreement filed in pursuance of this act, or of an act entitled "An act to provide for the incorporation of railroad companies," approved February twelve, eighteen hundred and fifty-five, and the acts amendatory thereof, and the acts amending or revising the same, with the Secretary of State, and certified by him to be a copy, shall in all courts and places be presumptive evidence of the consolidation of said two or more companies, and of all the facts therein stated: *And provided*, That any railroad bridge company, or railroad tunnel company which may be organized under this act to bridge or tunnel the Detroit river, or the St. Clair, or any of the waters in the jurisdiction of this State, shall have the right to consolidate the stock, property, and assets of said company with the stock, property, and assets of any company organized or to be organized under the laws of this State, or which may be created under the laws of any adjacent State or country, to construct any such bridge or tunnel therewith, upon such terms, conditions, and agreements as may by the said two corporations be deemed just and equitable: *Provided*, That every such bridge or tunnel shall be so constructed as not to be a material obstruction to navigation.

(55.) SEC. 30. Upon making the agreement mentioned in the preceding section, in the manner required therein, and filing a duplicate thereof in the office of the Secretary of State, the said two or more corporations mentioned or referred to in this section shall be merged in the new corporation provided for in such agreement, to be known by the corporate name therein mentioned, and the details of such agreement shall be carried into effect as provided therein. And all and singular, the rights and franchises of each and all of said two or more corporations, parties to such agreement, and all and singular, their rights and interests in and to every species of property and things in action, shall be deemed to be transferred to and vested in such new corporation, without any other deed or transfer; and such new corporation shall hold and enjoy the same, together with all the right of way and all other rights of property, in the same manner and to the same intent as if the said two or more corporations, parties to such agreement, should have continued to retain the title and transact the business of such corporation; and the titles and the real estate acquired by either of said two or more corporations shall not be deemed to revert or be impaired by means of anything in this act contained: *Provided*, That all rights of creditors, and all liens upon the property of either of said corporations, parties to the said agreement, shall be and hereby are preserved unimpaired, and the respective corporations shall continue to exist so far as may be necessary to enforce the same: *And provided further*, That all the debts, liabilities, and duties of either company shall thenceforth attach to such new corporation, and be enforced against the same, to the same extent and in the same manner as if such debts, liabilities, and duties had been originally incurred by it.

(56.) SEC. 31. It shall be competent for all railroad tunnel companies organized under this act, to construct tunnels under the waters of this State, to extend the railroad track or tracks which they may lay through any tunnel which they may construct, so as to connect with any railroad whose business may pass through it, and for that purpose may acquire the right of way over or under or across any private property, in the same manner as herein provided for acquiring the right of way for railroads, and may, with the authority of the common council of any city, acquire the right to cross and use such portion of any street as may be found necessary; and to raise money, shall have the same authority as is herein conferred upon railroad companies to issue and sell bonds, and secure their payments by deeds of trust; and for all such purposes the said railroad tunnel companies shall have the same rights as railroad companies organized under this act.

Privileges of
tunnel compa-
nies.

(57.) SEC. 32. Any such tunnel company shall have the right to negotiate with any railroad company which may connect with its tunnel, for the purpose of obtaining aid in the construction of its work, and such railroad company shall have full power and authority to grant such aid upon such terms as may be agreed upon by both parties; which aid may be given by subscription to capital stock, or by guarantying bonds, or by both, or by a lease and agreement to pay rent, or in any other form which shall be found most effectual to accomplish the purpose and enable the said companies to procure the requisite means.

Aid for same
from railroad
companies.

See § (53.)

(58.) SEC. 33. The said company shall have the right to charge such fair compensation for the use of its said road and tunnel by the railroad companies or horse-railroad companies whose business shall pass along and through it as shall be found by experience sufficient to enable them to pay, first, all the expense of keeping the works in repair and interest upon the money borrowed for the construction thereof, and dividends not exceeding ten per cent upon their capital stock, and such additional sum as may furnish a sinking fund each year, not to exceed five per cent of the amount of its bonded debt, for the purpose of gradually extinguishing the same.

Compensation
for use of tunnel.

(59.) SEC. 34. All railroad companies whose tracks may connect with such tunnels, shall have the right to send their business through them, upon such terms as shall be just and fair, and the charges for the passage of freight and passengers from all railroads shall be the same, and with no discrimination in favor of or against the business of any connecting road.

Right of com-
panies connect-
ing with tunnel
to use of same.

(60.) SEC. 35. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, they may, by agreement, provide for the construction of so much of said lines as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate at the point of intersection, and may reduce its

Two companies
may agree on
construction of
road on line com-
mon to both.

Company not hereby released from charter obligation to build, etc.

Proceedings when crossings or connections are sought to be made.

Expenses thereof, how borne.

Compensation for making, how ascertained.

Proviso—not to exceed value of land occupied.

Proviso—making connections within depot limits.

Sale under power contained in mortgage.

See § (25.)

Rights of purchasers.

Authority of companies to execute mortgages, etc., with power of sale.

capital to a sum not less than eight thousand dollars for each mile of the road proposed to be constructed in such amended articles of association. Nothing in this act shall be construed to release any chartered company from building any line of road, which by its charter it is obligated to build, or to transfer to any other company, by virtue of this section or any agreement made in pursuance thereof, such obligation.

(61.) SEC. 36. Any railroad company desiring to make the crossing or connection mentioned in subdivision six of section nine of this article, shall give written notice to the superintendent, or assistant superintendent, of the company or companies whose road or roads it desires to cross or connect with, of the time when, and the place where, it desires to make such crossing or connection, at least ten days before the time when it desires to make such crossing or connection, and at the expiration of such time such crossing or connection may be made. The expense of making the same shall be borne by the company making it, but all expenses connected with or incident to the existence or maintenance of such crossing or connection shall thereafter be borne equally by the companies whose roads form such crossing or connection. If, after such crossing or connection shall have been made, the companies cannot agree as to the compensation which should be made by the company making such crossing or connection, the same shall be ascertained by like proceedings and in like manner as provided in this act for the taking of land and other property: *Provided*, That such company shall not be required to pay an amount exceeding the value of the land of such other company or companies, than it actually occupies in such crossing or connection: *And provided further*, That no such crossing or connection shall be made within the depot limits of any such company without the consent of such company, or acquiring the right thereto as provided in this act for the taking of land and other property.

(62.) SEC. 37. It shall be competent and lawful for the trustees, in any deed of trust or mortgage of and upon any railroad, in case of the inability of said company, or its default in the payment of the principal or interest money secured thereby, in pursuance of any power of sale contained therein, to offer the same for sale, according to the power, and in pursuance of its terms, and on such sale to execute a deed of the premises sold, which said deed, duly executed, shall convey the title to the purchaser or purchasers, and authorize them to enter into possession and enjoyment thereof, as fully as may be provided in said mortgage or deed of trust; and it shall be competent and lawful for all railroad companies organized under this act, for the purpose of securing their bonds, authorized to be issued in accordance with its provisions, to execute such mortgage, or deed, with such power contained therein for the sale of the property mortgaged, or deeded, as shall, in its judgment, or the judgment of the board, be found expedient, and such power and sale in accordance therewith shall be lawful and valid.

(63.) SEC. 38. All companies organized under this act shall have power from time to time to borrow such sums of money as may be necessary for completing, finishing, equipping, or operating their road, or any part thereof, or for paying any indebtedness necessarily incurred for completing, finishing, or operating their road, or any part thereof; and to issue and dispose of their bonds or obligations for any amount necessarily borrowed for such purpose, for such sums and for such rate of interest, not exceeding ten per cent, as they may deem advisable, and to mortgage their corporate property and franchises and the income thereof, or any part thereof, to secure the payment of any debt contracted or to defray any expenditure by the company for the purpose aforesaid. And the directors of any such company may confer on any holder of any such bond or obligation the right to convert the same into the stock of said company at any time not exceeding ten years from the date of said bonds, on such terms and under such regulations as the company may see fit to adopt; and said company may sell their bonds or obligations, either within or without this State, and at such rates and prices as they may deem proper. Any such company may at any time, with the concurrence of the stockholders representing a majority of the stock a majority in value of its stockholders, at any annual meeting, or at any special meeting of the stockholders called for that purpose, increase its capital stock, or provide for the issue of preferred or secured stock, for the purpose aforesaid, upon such terms and conditions as to them may seem meet. In case the capital stock of any such company or corporation organized under this act shall be found insufficient for constructing or operating its road, or for building a double track, repairs, or other improvements to facilitate the transportation of persons or property, such corporation may with the concurrence of two-thirds in value of all its stock, increase its capital stock from time to time to any amount required for the purpose aforesaid; such increase shall be by a vote in person or by proxy of two-thirds in amount of all of the stock of such corporation, at a meeting of the stockholders called by the directors of the corporation for such purpose, by giving notice in writing to each stockholder, to be served personally, or by depositing the same in a postoffice, directed to the postoffice address of each of said stockholders severally, with necessary postage for the transmittal of the same prepaid, at least sixty days prior to the day appointed for such meeting, and by advertising the same in some newspaper published in each county through or into which the said road shall run or be intended to run, or if a newspaper shall not be published therein, then such meeting shall be advertised in two newspapers published in the city of Detroit at least sixty days prior to the day appointed for such meeting; and such notice shall state the time and place of the meeting, the object thereof, and the amount to which it is proposed to increase such capital stock, and at such meeting the corporate stock of such corporation may be so increased, by a vote of two-thirds in amount of the corporate stock of such corporation, to an amount not exceeding that mentioned in the notice so given.

Companies may borrow money, issue bonds, mortgage property, etc.

Bonds convertible into stock.

Increase of capital stock.

Agreements between companies for the common use of tracks and depot grounds.

Enlargement of station grounds.

Depot accommodations at junctions and joint terminus.

See § (16.)

See subd. 9 of § (24.)

Commissioner to determine rate of compensation therefor, when corporations cannot agree.

(64.) SEC. 39. In case one or more railroad companies shall use a common track into any of the cities or villages of the State, and it shall be found expedient to use a common or joint station ground therein, it shall be competent and lawful for the said companies whose interests shall be common in such track or tracks or station grounds, to enter into such agreements for such purpose as may become necessary for the joint use of the same, and such agreements, duly made and approved by the boards of directors of the two or more companies, shall be valid and binding upon all the parties thereto; and in case it shall be found necessary at any time to enlarge the station grounds at any such city or village for the convenience of said companies jointly using the same, it shall be competent and lawful for either one of the companies to negotiate for and obtain such grounds as may be needed for that purpose, and if they cannot be obtained by purchase, then either company may acquire the same under the provisions of the act regulating the mode and manner of obtaining lands necessary for the construction of railroads and stations; and in such case it shall be competent and lawful for such grounds so obtained to be used in common, and the companies so using may contribute, in such manner as may be agreed upon between them, the money to pay for the same; and such land, when obtained by purchase or by appraisal and condemnation under the provisions of this act, may and shall enure for the common benefit of all companies who by mutual arrangement and agreement shall be entitled to use them as a part of the common station ground as fully as if they had been acquired by a joint purchase by all of said companies.

(55.) SEC. 40. Where two or more railroads terminate or connect in the same city or town, each shall, for a reasonable compensation, provide upon its road at such terminus or connection, suitable depot accommodations for the passengers or merchandise of the other road terminating or connecting with it, and shall receive the same in the manner it receives and delivers its own passengers and freight, and at the rates provided by law. If the corporations cannot agree upon the terms and conditions upon which such accommodations shall be furnished and the business transacted, the Commissioner of Railroads shall determine the rate of compensation to be paid for the depot accommodations required for the proper reception and delivery of such passengers and merchandise over, and other business upon and connected with said roads in which they are jointly interested, and the manner in which the business shall be done, and apportion to the corporations their respective shares of the expenses, receipts, and income of the same; and the award of the Commissioner shall be binding upon the corporations.

ARTICLE III.

TAXATION.

Annual report of railroad companies to Auditor General.

(66.) SECTION 1. Every company shall, on or before the first day of May in each year, make and file with the Auditor General a report, which shall be verified by the president or vice president and

acting superintendent of such company, of its operations for the year ending on the last day of December next previous thereto, and shall state—

First, The capital stock and the amount paid in ;

Second, The amount expended for the purchase of lands for buildings, and for engines and cars, respectively ;

Third, The amount and nature of its indebtedness, and the amounts due to the company ;

Fourth, The amounts received for the transportation of passengers, of property, of mails, and from all other sources, including receipts for land sold ;

Fifth, The amount paid for operating expenses and ordinary repairs and construction ;

Sixth, The number and amount of dividends, and when paid ;

Seventh, The number of engine houses, shops, and cars, and their character ;

Eighth, The number of miles of road completed and in operation, and between what points completed, and between what points operated ;

Ninth, The amount of freight transported, specifying the quantity in tons, of minerals, products of the forest, animals, animal and vegetable food, manufactures, merchandise, and other articles ;

Tenth, The number of miles run by passenger, freight, and other trains, respectively ; the number of passengers transported, and the average number of miles of each passenger ;

Eleventh, The width of the gage of the road ;

Twelfth, Such other matters as the Auditor General may require.

(67.) SEC. 2. Any such company which shall neglect to make such report, or which shall willfully make a false report, shall be liable to a penalty of one thousand dollars; and it shall be the duty of the Auditor General, and he is hereby required, in case any such corporation incurs the penalty aforesaid, to forthwith issue his warrant for the collection of the same in the same manner, and to levy and collect the same in all respects as is herein provided for the collection of taxes against such corporation; and the collection of such penalty shall not absolve the corporation from the obligation to make such report, but it shall still be its duty to make the same, and a wilful neglect or refusal to do so may be cause for a forfeiture of the corporate franchises.

(68.) SEC. 3. Every company formed under the provisions of this act shall, on or before the first day of July in each year, pay to the State Treasurer, on the statement of the Auditor General, an annual tax upon the gross receipts of said company, computed in the following manner, viz: Upon all gross receipts not exceeding four thousand dollars in amount per mile of road actually and regularly operated for the conveyance of passengers and freight, two per cent of such gross earnings; upon such gross receipts in excess of four thousand dollars per mile so operated, three per cent thereof; which amount or tax shall be in lieu of all other taxes upon the property of such companies, except such real estate as is

Contents of report.

Penalty for neglecting to report, or reporting falsely.

Collection of same does not discharge obligation to report.

Tax upon gross receipts, payment of.

See §§ 1143-47 Compiled Laws of 1871.

How computed.

To be in lieu of other taxes.

Certain real estate, how taxed.

See §§ (199,) (200)

Roads only partly within State, how taxed.

Assessment of taxes upon roads that are leased.

Lien of State upon roads for taxes, penalties, etc.

Lien of citizens.

owned and can be conveyed by such corporation under the laws of this State and not actually occupied in the exercise of its franchises and not necessary or in use in the proper operation of its road; but such real estate so excepted shall be liable to taxation in the same manner, for the same purposes, and to the same extent, and subject to the same conditions and limitations as to assessment for taxation, to taxation, and to the collection and return of taxes thereon as is other real estate in the several townships within which the same may be situated. And when a railroad lies partly within and partly without this State, there shall be paid such portion of the tax herein imposed as the length of the operated road lying within this State bears to the whole length of the operated portion thereof.

(69.) SEC. 4. In case any railroad shall have been, or shall hereafter be, conveyed by way of lease, or any other agreement by which it shall be worked or operated by another company, under the provisions and authority contained in this act, with the obligation or right on the part of the company taking or holding a lease, or other working agreement, to pay the taxes on the leased road, it shall be competent and lawful for the company so obligated, or having the right to pay the said tax, to set forth the facts, and the extent of the road so leased, and the amount and description of the property so held by it, in a statement to the Auditor General; and thereupon the taxes to be assessed upon the railroad of the company, or portion of which, or the whole of which has been so leased, shall be assessed against the lessee, which shall be notified of the same; and in case a portion only of said road has been so leased or conveyed, the taxes shall be justly apportioned by the Auditor General, so that the said lessee shall be required and bound only to pay the proper portion thereof, to be assessed against the property in its possession and control.

(70.) SEC. 5. This State shall have a lien upon all railroads therein, and their appurtenances and stock therein, for all penalties, taxes, and dues which may accrue to the State from the companies owning or operating the same, which lien of the State shall take precedence of all demands, judgments, or decrees against said companies; and each citizen of the State shall have a lien upon all the personal property of said company, for all penalties, dues, and demands against any such company to the amount of one hundred dollars, originally incurred or contracted within this State, which, after said lien of the State, shall take precedence of all other debts, demands, judgments, or decrees, liens, or mortgages against said company.

ARTICLE IV.

POLICE REGULATIONS.

As amended by Act No. 98, laws of 1875.
Air brakes on passenger trains.

(71.) SECTION 1. On and after the thirty-first day of October, eighteen hundred and seventy-three, no regular passenger trains shall be run in this State, without an air brake or some equally effective device for checking the speed of the train, to be approved by the commissioner of railroads, which may be applied by the en-

gineer to each passenger car composing the train ; and every railroad company, person or corporation owning or operating a railroad in this State, which shall permit any such trains to be run on such road without such brake shall forfeit for every train so run, the sum of fifty dollars, to recover which, such company, person or corporation shall be liable in an action on the case, to be brought in behalf of the people of this State, and the money so realized shall be paid into the State treasury.

Penalty for not attaching.

(72.) SEC. 2. On and after July thirty-one, eighteen hundred and seventy-three, every company, person, or corporation owning or operating a railroad within this State, shall construct and maintain a gate or gates, or bridge, or maintain a flagman to signal trains at every highway or street crossing on the line of such road, where the same shall be required by the commissioner of railroads, as hereinafter provided. Any company, person, or corporation neglecting or refusing to construct or maintain such gate, or gates or bridge, or to maintain such flagman where so required as aforesaid, shall forfeit for every such neglect or refusal the sum of one hundred dollars, and the further sum of ten dollars for every day while such neglect or refusal shall continue.

As amended by act No. 93, laws of 1875.

Flagman, gate, or bridge at street crossing.

See § (17.)

Forfeiture for not maintaining.

(73.) SEC. 3. Whenever in the opinion of the commissioner of Railroads, the public interests require that a gate be constructed and maintained at any railroad crossing, or a bridge be built over such railway at such crossing, or that a flagman be stationed and maintained at such crossing, he shall give to the superintendent of such railroads a written notice that the same is required ; and such company, person, or corporation shall construct and maintain the same within such time thereafter as said commissioner shall prescribe.

Commissioner to give notice that same is required.

See § (17.)

(74.) SEC. 4. All gates which, by the provisions of this act, are under the direction of the commissioner of railroads, may be required to be constructed at street or highway crossings, shall be built in such manner, and within such time, and of such material as shall be approved by the commissioner of railroads, and shall be located on the highway or street on one or both sides of the railroad track or tracks, as the commissioner may deem the public safety to require, and shall be so constructed as when closed to obstruct and prevent any passage across such railroad or railroads from the side on which such gate may be located. There shall be a person in charge of every such gate at all hours of the day and night, and it shall be his duty to close the same at the approach of a train of cars, or of a locomotive, and to keep it open at all other times ; and it shall be the duty of the gate-keeper on either side of one or more tracks, to close the gate of which he is in charge on the approach of a train of cars or locomotive, on either track. For every neglect of such duty, such person, upon conviction thereof, shall pay the sum of twenty-five dollars, or be imprisoned in the county jail for the period of ninety days, or both, in the discretion of the court. The expense incurred in the erection and maintenance of the gates provided for in this section, and of the

As amended by act No. 98 Laws of 1875.

Gates, location and construction of.

See § (17.)

Duties of gate keeper.

Penalty for neglect of duty.

necessary gate-keepers, shall be shared equally by the railroad companies alongside whose tracks the gates shall be located.

Use of intoxicating drinks by employees prohibited.

(75.) SEC. 5. No person shall be employed as an engineer, train dispatcher, fireman, baggage-master, conductor, brakeman, or other servant upon any railroad, in any of its operating departments, who uses intoxicating drinks as a beverage; and any company in whose service any such person shall knowingly be employed shall be liable to a penalty of five hundred dollars for every such offense, to be sued for in the name of the people of the State of Michigan.

Liability of drunken engineer.

(76.) SEC. 6. If any person shall be intoxicated while in charge of a locomotive engine, running upon the road of any such company, or while acting as the conductor of any train of cars on any such road, he shall be liable for all damages incurred or produced in consequence thereof, and shall be deemed guilty of a misdemeanor: *Provided*, That this shall not affect or release the railroad company from any such liability.

Proviso—company not released.

As amended by act No. 98, laws of 1875.

Penalty for violating rules of company.

(77.) SEC. 7. It shall be the duty of every railroad corporation in this State to furnish to each of its employes of every grade a printed or written copy of its rules and regulations relative to their respective duties, and any conductor, engineer, servant, or other employe of any such railroad corporation, who shall knowingly violate any of the written or printed rules or regulations of such company, shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, or to an imprisonment in the county jail not more than three months, or both such fine and imprisonment, in the discretion of the court.

Putting passengers off train.

(78.) SEC. 8. If any person shall refuse to pay his fare, or refuse to obey such regulations as may be established for the convenience and safety of the passengers, it shall be lawful for the conductor of the train and servants of the company to put him off the train at any usual stopping place, or opposite any dwelling house the conductor may select.

Use of abusive language, etc., by passengers, cause for arrest and removal.

(79.) SEC. 9. In case it shall become necessary for the protection of the passengers on any railroad car from the violent, abusive, profane, or indecent language or conduct of any passenger, the conductor of such train is hereby authorized and empowered to arrest such passenger and remove him to the baggage car, or some safe and secure place on such train, until its arrival at some usual stopping-place, where he may be put off the train and put into the custody of some proper officer for prosecution, if necessary; for this purpose railroad conductors, while in charge of trains, are hereby invested with the powers of sheriffs and constables.

Conductors invested with powers of sheriff, etc.

Penalty for riotous conduct of passengers.

(80.) SEC. 10. Any person who shall, while riding in the cars on any railroad in this State, use or utter indecent, obscene, or profane language in the hearing of other passengers, or shall riotously or boisterously conduct himself or herself to the annoyance of other passengers, shall, on the conviction thereof, be deemed guilty of a misdemeanor, and shall be fined in the sum of twenty-five dollars, or imprisoned in the county jail for a period of sixty days, or both, in the discretion of the court. Upon the statement in writing, signed by the conductor of any train, specifying in what respect

Arrest of offender on conductor's statement.

any such person has misbehaved, and the delivery of such statement to the sheriff or deputy sheriff or constable of any county, or policeman of any city or village in this State, such officer shall take the person so offending into custody, and it shall be his duty to institute complaint against such person for such offense before a justice of the peace, and such justice shall have jurisdiction to try such offender, and to impose the judgment authorized by this section.

(81.) SEC. 11. In forming a passenger train upon any railroad operated in this State, the engine shall be placed at the head of the train, and no baggage or freight car shall be placed in the rear of any passenger car; and any officer, agent, or other employe who shall cause them to be so placed, or who shall knowingly suffer the same to be done, shall be deemed guilty of a misdemeanor, and be punished accordingly.

Making up passenger trains.

(82.) SEC. 12. If any person shall, by the placing of any impediment upon the track of any railroad, or by any other means whatsoever, throw from said track any engine or cars used thereon, or attempt so to do, whether such engine or cars be thrown from said track or not, or shall by any other means whatsoever willfully endanger or attempt to endanger the lives of persons engaged in the work of said road, or persons traveling on the engine or cars of said road, he shall be subject to imprisonment in the State Prison during his natural life, or any number of years, in the discretion of the court. And it shall not be necessary for the people to allege or prove in any such case that the person thereby intended to injure or endanger the life of any particular person or persons.

Punishment for placing impediments upon the track, etc.

See § (120.)

Allegation of proof of intention necessary.

(83.) SEC. 13. A bell of at least thirty pounds weight and a steam whistle shall be placed on each locomotive engine, and said whistle shall be twice sharply sounded at least forty rods before the crossing is reached, and after the sounding of the whistle, the bell shall be rung continuously until the crossing is passed under a penalty of one hundred dollars for every neglect: *Provided*, that at street crossings within the limits of incorporated cities or villages, the sounding of the whistle may be omitted unless required by the common council or board of trustees of any such city or village; and the company shall also be liable for all damages which shall be sustained by any person by reason of such neglect. Every railroad corporation shall, and they are hereby required to cause boards to be placed, well supported by posts or otherwise, and maintained at each public road or street, where the same is crossed by the railroad and on the same level. The boards shall be elevated so as not to obstruct the travel and to be easily seen by travelers, and on each side of said board shall be painted, in letters of not less than twelve inches in height, the words "railroad crossing;" but such boards need not be put up in cities or villages unless required by the proper officers thereof. This provision shall not apply to boards already erected.

As amended by act No. 93, laws of 1875.

Bell and whistle on locomotives, when used and penalty for neglect. Proviso—use in cities, etc.

Signal-boards at crossings.

(84.) SEC. 14. Every locomotive engine, passenger, freight, or other train of cars running on any railway, shall be brought to a full stop, not nearer than two hundred feet nor further than eight

Trains to stop before crossing tracks of other roads.

Which train to have precedence.	hundred feet from any railroad crossing, and shall not cross until the way is clear; and when two passenger or freight trains come up at the same time, the train on the road first built shall have precedence, provided they are both main tracks over which passengers and freights on said road are transported; but if only one is such main track and the other is a side or depot track, then the train on the main track shall take precedence. But if one of said trains is a passenger and the other a freight train, then the former shall take the precedence; and every engineer, conductor, or other person having charge or control of said engine or train who shall offend against the provisions of this section, shall be liable to a fine of not exceeding one hundred dollars for each violation.
Penalty for violation of rule.	
As amended by act No. 98, laws of 1875. Fences, cattle-guards, etc.	(85.) SEC. 15. Every railroad company formed under this act, or any former act, and every corporation owning or operating any such railroad shall erect and maintain fences on the sides of their respective roads of the height and strength of a division fence required by law, with fences and cattle-guards at all highway and street crossings, sufficient to prevent cattle or other animals from getting on such railroad; also gates or bars convenient for farm crossings. Until such fences and cattle-guards, or ditches shall be duly made, such company or corporation owning or operating such road shall be liable for all damages done to cattle or other animals thereon, which may result from the neglect of such company or corporation maintaining or operating such road to construct and maintain such fences, cattle-guards, or ditches, as aforesaid; and after such fences, cattle-guards, or ditches shall be duly made and maintained, such company or corporation shall not be liable for any such damages, unless negligently or willfully done. And every corporation owning or operating any such railroad shall, within six months from the time any section or portion of such road is finished and put in general use by running regular trains thereon, and in case of roads now in use within six months from the time this act shall take effect, shall erect and maintain such fences or obstructions as aforesaid. Any violation of the provisions of this section by any railroad company or corporation owning or operating such railway, shall be punished by a penalty of two hundred dollars per week for each and every week that they shall fail to comply with the provisions of this section: <i>Provided</i> , That if such fences or obstructions are not built as aforesaid, along such portions of any such line of road as is or may be situate north of a line extending due west from the mouth of the Saginaw river, the corporation owning or operating such line of road shall not be liable to said penalty of two hundred dollars per week, but shall be liable to all the other provisions of this section; and if any person shall ride, lead, or drive, or intentionally permit any horse or other animal upon such road and within such fences and cattle-guards or ditches, other than farm crossings, or shall injure or destroy, or make openings or passages through or over such fences, cattle-guards, or ditches, or neglect to close any gates or bars immediately after passing through the same, without the consent of such company or corporation, he shall, for every such offense, be liable
Liability for damages until fences are constructed.	
Penalty for neglect to fence, etc.	
Proviso—penalty modified for northern part of the State.	
Penalty for making openings in fences, etc.	

to a fine not exceeding one hundred dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved.

(86.) SEC. 16. Any railroad company building, owning, or operating any railroad in this State, shall be liable for all loss or damage to property by fire originating from such railroad, either from engines passing over such roads, fires set by company employes by order of the officers of said road, or otherwise originating in the constructing or operating of such railroad: *Provided*, That such railroad company shall not be held so liable if it prove to the satisfaction of the court or jury, that such fire originated from fire by engines whose machinery, smoke-stack, or fire-boxes were in good order and properly managed, or fires originating in building, operating or repairing such railroad, and that all reasonable precautions had been taken to prevent their origin, and that proper efforts had been made to extinguish the same in case of their extending beyond the limits of such road, when the existence of such fire is communicated to any of the officers of such company.

Company liable for damages by fire originating from its road.

Proviso—unless reasonable precautions had been taken.

ARTICLE V.

MISCELLANEOUS PROVISIONS.

(87.) SECTION 1. All of the stockholders of any such company shall be individually liable for all the labor performed; but they shall not be liable to an action therefor until an execution shall be returned unsatisfied, in whole or in part, against the corporation, and the amount due on such execution shall be *prima facie* evidence of the amount recoverable with cost against any such stockholder; and every stockholder against whom any such recovery for labor, ties, wood, and supplies shall have been had, shall have the right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of stock they shall respectively hold.

Liability of stockholders for labor performed.

(88.) SEC. 2. In case any passenger on any such road shall be killed or injured while on the platform of a car, or while in or on any baggage or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside its passenger cars then in the train, such company shall not be liable for the injury, if the injury be occasioned by the person being improperly on such platform or within such baggage or freight car, or after having been notified by the conductor or any other person having charge of any train, that such person is not in the proper place: *Provided*, Said company at the time furnished room and seats inside its passenger cars sufficient for the proper accommodation of its passengers.

Companies not liable when persons are killed on platform, etc.

Proviso—enough passenger accommodations furnished.

(89.) SEC. 3. If the directors of any corporation organized under this act, shall declare and pay any dividend when the company is insolvent, or the payment of which would render it insolvent, they shall be severally liable to a penalty of five hundred dollars.

Penalty for declaring a dividend when company is insolvent.

(90.) SEC. 4. If any certificate or report made or public notice given by the officers of any such company, in pursuance of the

Penalty for making false certificate or report.

provisions of this act, shall be willfully false in any material representations, all the officers who shall have signed the same, knowing it to be false, shall be severally liable to a penalty of five hundred dollars each.

Corporation to carry U. S. mail.

(91.) SEC. 5. Any corporation organized under this act or any former act, shall, when applied to by the postmaster general, carry the mails of the United States on their road or roads respectively; but the prices shall not be less for carrying said mails in the regular passenger trains than the amount which said corporation would receive as freight on a like weight of merchandise transported on their merchandise train, and a fair compensation for their postoffice car.

When company may be adjudged to have forfeited its corporate rights, etc.

(92.) SEC. 6. If any railroad company shall not, within three years after its organization, begin the construction of its road and expend thereon ten per cent on the amount of the capital stock subscribed, and finish the road and put it in full operation in ten years from the time of its organization, it may be adjudged to have forfeited its corporate rights and privileges by any court of competent jurisdiction, on the petition of one-fourth in value of its stockholders, except as to so much thereof as shall be completed at the time of filing such petition.

Death caused by wrongful act, neglect, or default of company, same to be liable for damages.

(93.) SEC. 7. Whenever the death of a person shall be caused by wrongful act, neglect, or default of any railroad company, or its agents, and the act, neglect, or default is such as would (if death had not ensued) entitle the party injured to maintain an action and recover damages in respect thereof; then and in every such case, the railroad corporation which would have been liable if death had not ensued shall be liable to an action on the case for damages, notwithstanding the death of the person so injured, and although the death shall have been caused under such circumstances as amount in law to felony.

Action for same, how brought.

(94.) SEC. 8. Every such action shall be brought by and in the names of the personal representatives of such deceased person, and the amount recovered in any such action shall be distributed to the persons, and in the proportion provided by law in relation to the distribution of personal property left by persons dying intestate; and in every such action the jury may give such amount of damages as they shall deem fair and just, to the persons who may be entitled to such damages when recovered: *Provided*, Nothing herein contained shall affect any suit or proceedings heretofore commenced and now pending in any of the courts of this State.

Proceedings heretofore begun not affected hereby.

Penalty for issuing fraudulent stock, etc.

(95.) SEC. 9. If any president, secretary, or other officer of any railroad corporation within this State shall, willfully and with intent to defraud said corporation, or any other person, make, sign, issue, sell, or offer to sell, any false or fraudulent stock, or other evidence of debt of said corporation, he shall be deemed guilty of felony, and shall be punished by imprisonment in the State prison, at hard labor, for a term not exceeding ten years.

See §§ (113), (125.)

Suits for penalties.

(96.) SEC. 10. All penalties incurred under this act, when not otherwise provided for, may be sued for in the name of the people of the State of Michigan, and if such penalty be for a sum not ex-

ceeding one hundred dollars, then such suit may be brought before a justice of the peace.

(97.) SEC. 11. This act may at any time be altered, amended, or repealed, but such alteration, amendment, or repeal shall not affect the rights of property of companies organized under it; nor shall the dissolution of such company take away or impair any remedy given for or against such corporation, its stockholders or officers, for any liability which shall have been previously incurred; and the provisions of this act shall apply to all companies incorporated or existing under the laws of this State, except the Paw Paw railroad company, which shall in no manner be affected by the passage of this act, in respect to the franchises and privileges heretofore granted to said company.

Act may be altered, amended, or repealed.

Paw Paw railroad excepted from operation hereof.

(98.) SEC. 12. All acts and parts of acts contravening any of the provisions of this act are hereby repealed; but all proceedings pending, and all rights and liabilities existing, acquired, or incurred at the time this act takes effect, are hereby saved, and such proceedings may be consummated under and according to the law in force at the time such proceedings were commenced, or they may be abandoned and new proceedings taken under this act.

Repeal of contravening acts.

(99.) SEC. 13. The following entitled acts are hereby repealed, viz: "An act to provide for the incorporation of railroads," approved February twelfth, eighteen hundred and fifty-five; "An act supplementary to an act entitled 'An act to provide for the incorporation of railroad companies,' approved February twelve, eighteen hundred and fifty-five," approved March twenty, eighteen hundred and sixty-three; "An act supplementary to an act entitled 'An act to provide for the incorporation of railroad companies,' approved February twelfth, eighteen hundred and fifty-five," approved March twenty-seven, eighteen hundred and sixty-seven; "An act to compel railroad companies to provide their passenger coaches with aprons between the coaches, for the protection of passengers, and for other purposes," approved March twenty-seven, eighteen hundred and sixty-seven; "An act for the relief of railroads in the Upper Peninsula," approved March twenty-seven, eighteen hundred and sixty-seven; also, "An act to revise the laws providing for the incorporation of railroad companies," approved April eighteen, eighteen hundred and seventy-one; also, all laws amendatory thereto, or in any of the parts thereof in conflict with the provisions of this act; but the organization of all corporations, under the provisions of either of said acts, shall be deemed and taken to be organizations under this act, and all rights, obligations, and liabilities contracted or incurred by any of such corporations thereunder, or under the provisions of any law now in force, not inconsistent with the provisions of this act, shall continue of the same force and effect as though such acts or law had not been repealed; and all such companies, from and after the taking effect of this act, shall be subject to all the provisions hereof as fully as though such organization had been perfected hereunder.

Acts repealed.

Corporations organized under other acts, deemed to be organized under this act, etc.

(100.) SEC. 14. This act shall take immediate effect.
Approved May 1, 1873.

AN ACT to legalize the election of directors of consolidated railroad companies in certain cases.

(Act No. 159, Session Laws of 1875.)

Elections of directors legalized.

(101.) SECTION 1. *The People of the State of Michigan enact,* That all elections of directors for consolidated railroad companies, held before the consolidation agreement shall have been filed with the Secretary of State, shall, in all suits and proceedings be of the same force and effect as if the said election had been held after the filing of said agreement: *Provided,* Said election was held after the consolidation agreement was sanctioned by the stockholders.

Proviso—election to have been after a sanction of stockholders.

(102.) SEC. 2. This act shall take immediate effect.

Approved April 29th, 1875.

BUILDING RAILROADS THROUGH BURYING GROUNDS.

(Compiled Laws of 1871, section 7713.)

Penalty for building roads through burial grounds.

(103.) If any person shall open or make any highway, shall construct any railroad, turnpike, or canal, or any other thing in the nature of a public easement, over, through, in, or upon such part of any enclosure, being the property of a township, city, religious society, or of any other body corporate, or of private proprietors, as may be used or appropriated for the burial of the dead, unless an authority for that purpose shall be specially granted by law, or unless the consent of such township, city, religious society, body corporate, or proprietors respectively, shall be first obtained, he shall be punished by fine not exceeding two thousand dollars, or imprisonment in the county jail not more than one year.

AN ACT to authorize railroad companies to convey their franchises and property under certain circumstances.

(Act No. 190, Session Laws of 1873.)

Sale of railroad franchises and property.

(104.) SECTION 1. *The People of the State of Michigan enact,* That it shall be lawful for any railroad company in this State which shall have entered, in good faith, upon the work of constructing its road, and shall have become unable to complete the construction of the same, or of any part thereof, to sell and convey the whole or any part of its road so partially completed, together with the rights and franchises connected therewith, to any other railroad company or corporation of this State, not having the same terminal points and not being a competing line: *Provided,* That at any general or special meeting duly called for that purpose the stockholders owning two-thirds of the stock of said company shall consent thereto: *And provided further,* That the company or corporation so purchasing shall hold such property and franchises subject to all the obligations and duties, and with all the rights and privileges prescribed by the general railroad law of this State.

See § 154)

Proviso—vote necessary for sale.

Proviso—liabilities of purchasers.

(105.) SEC. 2. Such conveyance shall be executed by the secretary of the company, under its corporate seal, and there shall be attached thereto a copy of the resolution passed at the stockholders' meeting, authorizing the same, which shall be certified to by the secretary of said company. Such conveyance, with said resolution, shall be recorded in the office of the register of deeds in every county in which the property so conveyed may be situated, and a copy thereof shall be filed in the office of the Secretary of State.

Execution and record of conveyance.

(106.) SEC. 3. Nothing in this act contained shall be construed as rendering valid any conveyance which shall in any manner interfere with the rights of creditors: *Provided*, That the company so buying such railroad shall complete the same within five years from the date of purchase, or said sale shall be void.

Rights of creditors reserved.

Proviso—sale, how void.

Approved April 29, 1873.

AN ACT to provide for the service of writings, processes, and notices, in certain cases, upon persons in the employ of certain corporate companies.

(Compiled Laws of 1871, Section 6559.)

(107.) SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Michigan*, That whenever, in any suit or proceeding, either in law or equity, it shall become necessary to serve any process, notice, or writing, upon any railroad company in this State, it shall be sufficient to serve the same upon any conductor of a freight or passenger train of cars, or upon any weigh-master at any station or depot along the line, or at the end of the railroad of such company; and such service shall be deemed as good and effectual as if made on the officers, stockholders, or members, or either of them, of said company.

Service of process upon railroad companies, how made.

(108.) SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 28, 1849.

AN ACT in relation to mortgages against preferred stock in, and the delivery of goods by, railway companies.

(Compiled Laws of 1871, Sections 2373-75.)

109.) SECTION 1. *The People of the State of Michigan enact*, That upon the foreclosure of any mortgage or pledge of the property and franchises of any railway corporation, if the railway track and its appurtenances are sold at the sale thereunder, and if the purchaser or purchasers shall, either by purchase from said company or otherwise, provide suitable equipments for running said road, and performing in all respects the duties to the public by law incumbent upon said corporation, and shall transfer to said corporation again its railway track and appurtenances, and all and singular the equipments necessary to run the same, and perform all its duties to the public, and shall, under their hands and seals,

Foreclosure and sale of railway franchises.

See §§ (25), (62), and (63.)

Purchasers may
organize, and is-
sue new stock.

Proviso—limit
of issue.

Cancellation of
old stock.

Prior liens not
impaired.

Preferred stock,
when issuable.

Proviso—
dividends not to
exceed rate of
interest.

and verified by their oaths, declare that he or they, having become such purchaser or purchasers, are desirous of continuing to perform the duties and enjoying the franchises and immunities of said corporation, and state in said declaration, under oath, that they have so provided the means for continuing the same, and set forth the name which he or they desire said corporation to be thereafter called, and shall file said declaration with the Secretary of State, together with a copy of the order confirming the sale to him or them, and notify the Attorney General, then such purchaser or purchasers shall be at liberty to issue, and themselves hold, new stock in said corporation to such an amount and of such denomination as they shall deem proper: *Provided*, That unless additional stock shall be in good faith subscribed by persons able fully to pay up the same, new stock to a greater amount shall not be issued than sufficient at par. to represent the fair value of all the property and rights then owned by said corporation. When said new stock shall be issued, and the holders thereof shall proceed as they are hereby authorized to do, to elect officers for said corporation, and said officers shall duly qualify for the same, as by the charter required, the old officers of said company shall be superseded, and the old stock in said corporation shall be deemed forfeited, and may be canceled on the books of said corporation, and the new stockholders and officers shall, in the law, be deemed, and taken to be the stockholders and officers of said corporation, the charter and all laws appertaining thereto continuing to be the charter and laws regulating and governing said corporation, except that it may be known and called, and sue and be sued, and may contract, and do all acts which in the law it could have done in its old name, in and by the name set forth in the declaration aforesaid. And the said corporation shall not be liable for any debts or obligations except those by it thereafter contracted. But no prior mortgage or lien shall be in any way affected by such proceeding, and all property whatsoever, if any, that shall not be sold, shall remain liable for all the debts of such corporation, and no liability of any corporator, director, or other person whatsoever, shall be in any wise lessened or affected by any proceeding or act authorized by this act.

(110.) SEC. 2. When it shall be necessary to make loans in order to meet the just liabilities, or to carry out the lawful objects and duties of any railroad corporation within this State, or if any of its creditors holding its bonds or other obligation of indebtedness whatsoever, shall be willing to exchange the same for preferred or secured stock, it shall be lawful for any such corporation, a vote of a majority of the stockholders being first obtained therefor, to issue such stock, and to secure in any lawful mode the prescribed dividends thereon, and to make the same payable in preference to dividends upon the other stock of said corporation: *Provided*, That no dividend shall be secured greater than the rate of eight per cent, unless all the stockholders shall vote therefor, and in no case greater than the rate of interest allowed by law at the time such stock shall be issued. Such preference may be full or partial,

and subject to such conditions and terms as said corporation may deem proper; and such stock shall be redeemable and payable upon such terms and at such times as shall be provided in the resolution authorizing the issue thereof, but no such stock shall be sold at less than its par value.

(111.) SEC. 3. Every railway company in this State is authorized to make personal delivery of every parcel, package, or quantity of goods or property, if the consignee of such property shall reside within two miles of the terminus, or railway station, or other terminus of the carriage of such property by the main line of such carrier, and they are hereby authorized to employ or own all the means necessary to perform such duty, and to place the men and vehicles therefor, under the government and sole regulation of the superintendent or other proper officer of such companies. Such delivery shall be at the house, shop, office, or other place of business of the consignee, according to the nature of such property, and where the owner or consignee desires to have the same: *Provided*, That in all cases where the consignor or consignee shall desire to have said property taken at the depot, station, or terminus of the carriage of the same, he shall be at liberty to do so, and on notice given, either by a party sending goods, or a party expecting to receive any, that he or they so desire, they shall remain in the usual manner, and for the usual time, in the custody of said carrier, subject to the order of the owner thereof: *Provided*, That when the by-laws or ordinances of any municipal corporation requires any sum of money to be paid annually or otherwise, for licenses by draymen or other common carriers in each municipal corporation, said railway companies shall not have the benefit of this section without paying into the treasury of such municipal corporation such sum or sums of money for each and every of the drays or other vehicles of carriage, for the delivery of goods provided for in this section, as may be provided in said by-laws or ordinances for licensed draymen, and other like common carriers.

Delivery of goods by railway companies.

See §§ (141-2) and subd. 7 of § (34.)

Proviso—goods to be subject to order of owner.

Proviso—payment of license.

(112.) SEC. 4. This act is ordered to take immediate effect.

Approved February 10, 1859.

AN ACT relative to the issuing of false, fraudulent, and part-paid shares of the stock of railroad companies, and to repeal sections four and five, of act number two hundred and twenty-nine, of the session laws of eighteen hundred and sixty-three.

(Compiled Laws of 1871, Sections 7757-60.)

(113.) SECTION 1. *The People of the State of Michigan enact*, That it shall not be lawful for any railroad company existing by virtue of the laws of this State, nor for any officer of any such company to sell, dispose of or pledge any shares in the capital stock of such company, nor to issue certificates of shares in the capital stock of such company, until the shares so sold, disposed of, or pledged, and the shares for which such certificates are to be issued, shall have been fully paid; and if any officer or officers of any

Sale of partly-paid stock prohibited.

See § (81.)

Penalty for such sale.

Sec §§ (95), (125.)

Special annual report of capital stock actually disposed of.

Penalty for neglecting to report.

Repealing section.

such company shall issue, sell, pledge, or dispose of any shares or certificates of shares of the capital stock of such company, in violation of the provisions of this act, such officer or officers so doing, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law, in case of issuing false or fraudulent railroad stocks. The provisions of this act shall apply as fully to the stocks and officers of consolidated railroad companies, existing in whole or in part within this State, as to original unconsolidated companies existing as aforesaid.

(114.) SEC. 2. It is hereby made the duty of every such railroad company as aforesaid, to file with the Secretary of State, in the month of July in each year, a special report and statement, sworn to by the president and treasurer of the company, setting forth explicitly the number of shares of capital stock actually issued, sold, pledged, or disposed of by the company, to the date of such report, and the amount of capital stock issued during the year last past, and the amount received therefor in money, and the amount received therefor, if any, in property and other effects.

(115.) SEC. 3. Any violation of the provisions of this act, or any neglect to comply with the requirements of this act, or the making of any false statement to the Secretary of State in relation to any of the matters required by the preceding section to be reported to him, shall render the officers and directors of any such railroad company as aforesaid, guilty of any such violation or neglect, or making or permitting any such false statement, liable to the State for the penalties heretofore provided by law.

(116.) SEC. 4. Sections four and five of an act entitled "An act supplementary to an act entitled an act to provide for the incorporation of railroad companies," approved February twelfth, eighteen hundred and fifty-five, and approved March twentieth, eighteen hundred and sixty-three, together with all acts and parts of acts contravening the provisions of this act, are hereby repealed.

(117.) SEC. 5. This act shall take immediate effect.

Approved March 20, 1865.

AN ACT relative to tender of damages by railroad companies.

(Compiled Laws of 1871, section 2878.)

Tender for right of way.

Compare with § (40.)

(118.) SECTION 1. *The People of the State of Michigan enact,* That when any railroad company desires to acquire the right of way through any lands or premises, such company may, previous to or after proceedings are commenced for such purpose, tender to the owner or owners of said lands or premises, any sum of money which such company shall conceive sufficient amends for the damages for such right of way, together with the cost to the time of making such tender; and if it shall appear in the progress of such proceedings, or upon the assessment of damages, that the amount so tendered was sufficient to pay such damages, and twenty-five per cent over and above the same, and the costs of the suit or proceedings up to the time of such tender, the owner or owners of

such lands or premises shall not be entitled to recover or collect any costs incurred subsequent to the time of such tender, but shall be liable to such railroad company for the costs incurred by it subsequent to such time.

(119.) SEC. 2. This act shall take immediate effect.

Approved March 18, 1863.

AN ACT to define certain offenses affecting railroads, and to provide punishment for the same.

(Compiled Laws of 1871, sections 7619-24.)

(120.) SECTION 1. That every person who shall place upon any railroad any timber, stone, iron, or other obstruction, or who shall loosen or displace any rail of the track of such railroad, or shall break down or displace, destroy, or injure any bridge, culvert, or embankment of any railroad, or do any other act with intent to endanger the safety of any person traveling or being upon such railroad, or to throw from such railroad any locomotive, tender, or car moving along the track of such railroad, on which shall be any person or property liable to be injured thereby, shall be punished by imprisonment in the State Prison for life, or for a term of years.

Obstructing or displacing track, how punished.

As amended by act No. 168, laws of 1871.

(121.) SEC. 2. Every person who shall steal from any car while detained by accident or injury to any railroad, locomotive, tender, or car, or who shall steal the property of, or rob, any person detained, injured, or killed by reason of any accident or injury to any such railroad, locomotive, tender, or car, shall be punished by imprisonment in the State Prison for a term not exceeding twenty years, or by fine not exceeding three thousand dollars, or both fine and imprisonment, at the discretion of the court.

Stealing from cars or passengers detained by accident.

See § (127), et seq.

(122.) SEC. 3. If any person, not being employed on any railroad, shall willfully and maliciously uncouple or detach the locomotive or tender, or any of the cars of any railroad train, or shall in any way aid, abet, or procure the doing of the same, such person shall be punished by imprisonment in the State Prison not exceeding ten years, or by fine not exceeding two thousand dollars, or both, at the discretion of the court.

Malicious uncoupling of cars.

(123.) SEC. 4. If any person shall unlawfully seize upon any locomotive, with any express or mail car attached thereto, and run away with the same upon any railroad, or shall aid, abet, or procure the doing of the same, such person shall be punished by imprisonment in the State Prison not exceeding ten years, or by fine not exceeding two thousand dollars, or both, at the discretion of the court.

Running away with locomotives to which express or mail cars are attached.

(124.) SEC. 5. If any officer of any incorporated railroad company shall fraudulently embezzle, dispose of, or convert to his own use, any passenger railroad tickets which have come to his hands, or charge, by virtue of his office or employment, he shall be punished by imprisonment in the State Prison not exceeding ten years, or by fine not exceeding three thousand dollars, or both, at the discretion of the court. In any prosecution under this section, it

Embezzlement of passenger tickets.

How prosecuted.

shall be lawful to include in a charge, as one offense, all acts constituting such offense committed between certain days set forth; and it shall be sufficient to set forth by their value, a general nature of the tickets alleged to have been unlawfully taken; and it shall be sufficient to maintain the charge, if it shall be proved upon the trial that any such tickets were, within the period set forth, embezzled, disposed of, or converted as alleged.

Issue of fraudulent stock; how punished.

Sec §§ (95), (113.)

(125.) SEC. 6. Any director or other officer of any incorporated railroad company who shall make or issue any unauthorized or a fraudulent certificate of stock, bond, or obligation of such company, or who shall aid, abet, procure, or consent to any such making or issuing, knowing the same to be unauthorized and fraudulent, shall be punished by imprisonment in the State Prison not exceeding ten years, or by fine not exceeding five thousand dollars, or both, at the discretion of the court.

Approved April 5, 1869.

AN ACT to amend sections seven thousand five hundred and sixty-three, seven thousand five hundred and sixty-four, seven thousand five hundred and sixty-five, seven thousand five hundred and sixty-six, and seven thousand six hundred and twenty-three, of the compiled laws of eighteen hundred and seventy-one, relative to offenses against property.

(Act No. 93 of the Session Laws of 1875.)

Sections amended.

(126.) SECTION 1. *The People of the State of Michigan enact,* That sections seven thousand five hundred and sixty-three, seven thousand five hundred and sixty-four, seven thousand five hundred and sixty-five, seven thousand five hundred and sixty-six, and seven thousand six hundred and twenty-three, of the compiled laws of eighteen hundred and seventy-one, relative to offenses against property, shall be and the same are hereby amended so as to read as follows:

Burglary from cars, etc.

See § (121.)

Idem.

(127.) (7563.) SEC. 12. Every person who shall break and enter, in the night-time, any office, shop, store, railroad depot, warehouse, mill, school-house, or factory, not adjoining to or occupied with a dwelling-house, or any railroad car, shop, boat, or vessel, within the body of any county, with intent to commit the crime of murder, rape, robbery, or any other felony or larceny, shall be punished by imprisonment in the State prison not more than fifteen years.

(128.) (7564.) SEC. 13. Every person who shall enter in the night-time, without breaking, or shall break and enter in the day-time, any dwelling-house, or any outhouse thereto adjoining, kept therewith, or any office, shop, store, railroad car, railroad depot, warehouse, mill, factory, or any ship, boat, or vessel, within the body of any county, with intent to commit the crime of murder, rape, robbery, or any other felony or larceny, the owner or any other person lawfully therein being put in fear, shall be punished by imprisonment in the State prison not more than ten years.

Idem.

(129.) (7565.) SEC. 14. Every person who shall enter any dwelling-house in the night-time, without breaking, or shall break or

enter in the day-time, any dwelling-house, or any outhouse thereto adjoining and occupied therewith, or any church, office, shop, store, railroad car, railroad depot, warehouse, mill, school-house, or factory, or any ship, boat, or vessel lying within the body of any county, with intent to commit the crime of murder, rape, robbery, or any other felony or larceny, no person lawfully therein being put in fear, shall be punished by imprisonment in the State Prison not more than five years, or by a fine not exceeding five hundred dollars, and by imprisonment in the county jail not more than one year: *Provided*, That every person who shall unlawfully break into any railroad freight car, or unlawfully enter the same without breaking, with intent to obtain carriage in such car, the same being a part of a freight train, shall be punished by a fine not exceeding two hundred dollars, or imprisonment in the house of correction or county jail not more than six months, or both such fine and imprisonment.

Proviso—stealing a ride in freight car.

(130.) (7623.) SEC. 5. If any officer, agent, or employe, of any incorporated railroad company shall fraudulently embezzle, dispose of, or convert to his own use any passenger railroad tickets which have come to his hands or charge by virtue of his office or employment, he shall be punished by imprisonment in the State Prison, not exceeding ten years, or by fine not exceeding three thousand dollars, or both, at the discretion of the court. In any prosecution under this section, it shall be lawful to include in a charge, as one offense, all acts constituting such offense committed between certain days set forth; and it shall be sufficient to set forth by their value a general description of the tickets alleged to have been unlawfully taken; and it shall be sufficient to maintain the charge if it shall be proved upon the trial that any such tickets were, within the period set forth, embezzled, disposed of, or converted as alleged.

Embezzlement by employes.

Approved April 22, 1875.

OFFENSES AGAINST RAILROAD PROPERTY.

(Compiled Laws of 1871, sections 7598, 7601, 7602.)

(131.) SEC. 47. Every person who shall willfully and maliciously break down, injure, remove, or destroy any public or toll bridge, or any railroad, or any turnpike gate, or any lock in any dam, or any lock, culvert, or embankment of any canal, or who shall willfully and maliciously make any aperture or breach in any such embankment, with intent to destroy or injure the same, shall be punished by imprisonment in the State Prison not more than five years, or by fine not exceeding five hundred dollars, and imprisonment in the county jail not more than one year.

Penalty for injury to railroad gates.

(132.) SEC. 50. Every person who shall willfully or maliciously break down, injure, remove, or destroy any monument erected for the purpose of designating the boundaries of any township, or of any tract or lot of land, or any tree marked for that purpose, or shall so break down, injure, remove, or destroy any mile stone,

Penalty for removing or injuring railroad guide-boards.

mile board, guide post, or guide board, erected upon any highway or other public way, turnpike or railroad, or shall willfully or maliciously deface or alter the inscription on any such stone, post, or board, or shall willfully or maliciously mar or deface any building or any sign board, or extinguish any lamp, or break, destroy, or remove any lamp, or any lamp post, or any railing or posts, erected on any bridge, sidewalk, street, highway, court, or passage, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding fifty dollars, or both at the discretion of the court.

Penalty for removing goods from railroad depots or warehouses without the license of the owner.

(133.) SEC. 51. Every person who shall willfully commit any trespass, by cutting down or destroying any timber or wood, standing or growing on the land of another, or by carrying away any kind of timber or wood, cut down or lying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf, or mould from such land, or any roots, fruit or plant there being, or by cutting down or carrying away any grass, hay, or any kind of grain standing, growing, or being on such land, or by carrying away from any wharf or landing place, railroad depot or warehouse, any goods whatever, in which he has no interest or property, without the license of the owner, of the value of five dollars or more, shall be punished by imprisonment in the county jail not more than sixty days, or by fine not exceeding one hundred dollars.

AN ACT to fix the liability of railroads as common carriers in certain cases.

(Compiled Laws of 1871, sections 2386-57.)

Common carriers, liability of railroad companies as.

Compare § (29.)

(134.) SECTION 1. *The People of the State of Michigan enact,* That no railroad company shall be permitted to change or limit its common law liability as a common carrier, by any contract, or in any other manner, except by a written contract, none of which shall be printed, which shall be signed by the owner or shipper of the goods or property to be carried.

Reception and delivery of freight.

See §§ (144), (159.)
Proviso—charges and delivery.

(135.) SEC. 2. Nothing in this act shall be so construed as to interfere in any way with the right of railroad companies to collect or deliver freights from and to any of their depots or elsewhere; and said railroad companies shall, under this act, have the right to collect and deliver said property: *Provided*, That no additional charge shall be made therefor: *Provided further*, That nothing herein contained shall be so construed as to preclude any owner or shipper of any such goods, freight, or property from hauling the same to or from any place or places connected with any railroad, where such property, freight or goods are deliverable.

Approved March 27, 1867.

AN ACT in relation to testimony in certain cases.

(Compiled Laws of 1871, sections 5950-51.)

(136.) SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Michigan*, That on the trial of any cause between any person and any railroad company of this State, or the agent or servant of such railroad company, wherein payment is claimed for any article or articles of traveling baggage retained or lost by said company, or their agent or servant, the owner of such baggage shall be permitted to testify in open court in relation to the contents and value of the said article or articles of baggage; and such testimony so given shall have the same effect as if the person so testifying had no interest in the result of such suit: *Provided*, No judgment shall be rendered on such testimony alone for a greater sum than one hundred and fifty dollars.

Suits for lost baggage—testimony in.

See § (36.)

Proviso—limit of judgment.

(137.) SEC. 2. Suit may be brought for any article or articles of baggage lost or detained against the railroad company to whom the same was delivered, or against the agent or servant of such company to whom the same was delivered.

Suits, how brought.

Approved April 21, 1873.

AN ACT to regulate the sale of tickets by railroad companies at special rates and on special conditions.

(Act No. 141, Session Laws of 1875.)

(138.) SECTION 1. *The People of the State of Michigan enact*, That any railroad corporation doing business in this State may make contracts for the conveyance of passengers upon designated trains, for a specific distance, at fixed times, at such reduced rates of fare as the parties may agree upon. Tickets may be issued for such passengers, upon which shall be plainly printed the terms upon which they may be used. Such tickets shall not entitle the holder to ride upon any train not therein designated, or at any time beyond that stipulated therein.

Tickets may be sold on conditions, if at special rates.

Approved April 28, 1875.

AN ACT relative to the use of sleeping, parlor, and chair cars upon the railroads of this State.

(Act No. 83, Session Laws of 1875.)

(139.) SECTION 1. *The People of the State of Michigan enact*, It shall be lawful for any railroad company operating any railroad within this State, to use for the transportation of passengers, sleeping cars, parlor cars, or chair cars, for the use of such passengers as may desire to use the same, and such company may make such reasonable rules and regulations concerning the use of these, as such company may think proper, and may charge a reasonable compensation for such use in addition to the regular passenger fares allowed by law.

Railroads may build and run their own sleeping cars.

Other accommodations necessary.

(140.) SEC. 2. Nothing herein contained shall release any such railroad company from its obligations to furnish first-class passenger cars for the use of the public for the regular passenger fares now fixed by law.

(141.) SEC. 3. This act shall take immediate effect.

Approved March 19, 1875.

AN ACT to regulate drayage to and from railroads.

(Compiled Laws of 1875, Sections 2384-35.)

Delivery of freight.

See § (111.)

Proviso—notice of arrival thereof

Drayage fees.

See § (111.)

(142.) SECTION 1. *The People of the State of Michigan enact,* That all freight carried by any railroad company, now or hereafter existing under the laws or doing business in this State, shall be deliverable to the consignee thereof at the depot or station of such company, in the place where the same shall be directed, unless the consignee or consignees thereof shall consent to the delivery of the same at his or their place or places of business, or elsewhere, by the drays or trucks owned or employed by said railroad company: *Provided,* That immediately, or within a reasonable time after the arrival of any such freight at its place of destination, the railroad company carrying the same shall give notice of such arrival to the consignee or consignees of such freight.

(143.) SEC. 2. All shippers of freight, by any of the railroad companies of this State, shall be and are hereby authorized to deliver any goods or freight they may wish to have transported on said railroads, to any of said companies' depots or stations, at the usual places of deposit therefor; and it shall not be lawful for any such railroad company to charge, collect, or receive any cartage or drayage on goods received for transportation, unless said goods shall have been actually carted or drayed by said railroad company at the request of the shipper or shippers thereof; and any person or persons violating the provisions of this act, shall be deemed guilty of a misdemeanor, and punishable by fine not exceeding ten dollars.

Approved February 19, 1867.

AN ACT to promote the collection of debts by creditors of railroad companies.

(Compiled Laws of 1871, Sections 6552-58.)

Suit for fraudulent transfer of railroad franchises to prejudice of creditors.

(144.) SECTION 1. *The People of the State of Michigan enact,* That in all cases where a creditor of a railroad company shall make, or cause to be made, an affidavit, stating that he is a creditor of said company, and that he is in doubt as to the company or persons who are in the actual possession of said railroad, and that he knows or has good reason to believe that a fraudulent transfer of said road, its franchises, and other property, has been made to his prejudice as a creditor, he shall be and hereby is authorized, in any suit at law which he may commence in a court of compe-

tent jurisdiction for the recovery of his debt, to make all persons and corporations defendants in said suit who might be properly made parties to a bill in chancery, brought by said creditor for discovery, or to set aside any transfer of said road, its franchises and other property, to any other party or corporation, or to cancel any mortgage, or to set aside any judgment or decree obtained against said railroad company for fraud in the same, upon filing such affidavit and serving a copy thereof with the process, or declaration and notice of rule to plead, by which such suit is commenced.

(145.) SEC. 2. It shall be the duty of such plaintiff, in his declaration, to allege with reasonable certainty the facts upon which he relies for relief in said action, and he may be allowed to amend his declaration the same as in other cases. In case the said defendants, or any of them, fail to appear and plead, his or their default may be entered as in other cases. A plea demanding a trial of the matters set forth in the declaration, shall put in issue every material averment in the declaration. If, in such action, any person shall be made a defendant, from whom no discovery or relief is sought, except a disclaimer of any right in the subject matter of the suit, he shall be at liberty to disclaim, as in chancery suits, and with like effect.

Pleadings.

(146.) SEC. 3. The court or jury before whom such case may be tried, shall find, if requested by either party, the facts so placed in issue, and the court shall render judgment thereon, as in other cases, upon a general or special verdict. In giving judgment in such cases, the court may exercise all the powers of a court of equity, and may enforce its judgment by execution, attachment, sequestration of the property, or by any other means recognized by the courts, either of law or equity.

Judgment—how enforced.

(147.) SEC. 4. If the plaintiff, or some one in his behalf, shall file with the register of deeds, in the county where said suit is commenced, a notice thereof with a statement of his demand, and shall annex thereto a copy of the affidavit filed in the cause, he shall thereby acquire a lien upon all the property of said railroad company, whether in the possession of said defendants, their agents, or fraudulent assignees, or other persons, and all subsequent transfers, sales, and assignments, shall be deemed wholly inoperative and void as against said lien.

Lien in the nature of lis pendens.

(148.) SEC. 5. Any railroad company may be sued by the name in which its business shall be conducted when said suit shall be brought, and it shall not be permitted to deny, by plea or otherwise, that it is a corporation existing under said name.

Name under which company may be sued.

(149.) SEC. 6. If any corporation or persons shall be in possession of the franchises or property of any railroad corporation claiming to be purchasers under the foreclosure of a mortgage upon such franchises or property, they may be made parties under the provisions of the first section of this act, or be cited to appear after the commencement of said suit, by an order from the court before which the cause is pending; and if it shall appear upon the trial of said cause that the foreclosure of the mortgage was fraudulent or illegal, they shall be held as mortgagees in possession, and

Joint defendants.

When they may be held liable to account as mortgagees in possession.

liable to account in said suit for all the earnings of said road which they have received, after deducting the proper and legitimate expenses of operating said road, and keeping the same in repair, and also the interest accruing upon the said mortgage. The court before whom said cause is pending, may make any proper order for the taking of said account, and if it shall be found on said accounting that there is a balance left in the hands of the corporations or persons so holding under said foreclosure, they may be required by the judgment of said court to pay over the same, or so much thereof as is necessary to satisfy the judgment which the plaintiff may obtain in said suit.

Notice upon absent parties.

(150.) SEC. 7. If any of the corporations or parties heretofore named in this act as proper parties to said proceedings, shall be without this State, at the time when said proceedings are commenced, notice may be given them by publication, in the same manner and with like effect as is provided for absent defendants in chancery proceedings.

Approved March 27, 1867.

AN ACT to provide for the protection of laborers and persons furnishing material for the construction and repairing of railroads in this State.

(Compiled Laws of 1871, Sections 2393-95.)

Payment of laborers hired by contractors may be provided for in contract.

(151.) SECTION 1. *The People of the State of Michigan enact,* That it shall be lawful for all railroad companies, when contracts are made by them with contractor or contractors, for work, labor, or materials to be used in repairing or constructing railroads, to provide in the contract or contracts with said contractor or contractors, for the payment of laborers and persons furnishing materials to said contractors or sub-contractors, to be used in said contract, and if no such provision is made in aid contract or contracts, it shall be lawful for said railroad companies to withhold payment until such laborers and persons furnishing material are paid; and it shall be the duty of such railroad companies, by agent or otherwise, at each pay-day on said road or roads, to see that all laborers and persons furnishing material employed by contractor or contractors, or sub-contractors, are paid before payment is made to said contractors: *Provided,* The provisions of this act shall not apply to any iron or other materials and property used in ironing and equipping said railroad: *Provided further,* That a bill of items of the material and labor furnished to said contractor or sub-contractors shall be furnished to the company through their agent, or otherwise, together with the amount claimed, prior to the usual pay-day of said company, when such claim shall be due, or in case the contractor or contractors are not then paid, then prior to the payment then due.

Proviso—exemptions as to material used.

Proviso—bill for materials and labor to be furnished company.

Action for recovering pay from companies.

(152.) SEC. 2. On compliance with the provisions of section one of this act, the persons performing the labor or furnishing the ma-

materials mentioned in section one, shall have the right to collect pay for the same from said railroad companies by action, as in case of other claims against said railroad companies, if the said claim or claims are undisputed, and acknowledged to be due from said contractor or sub-contractors.

(153.) SEC. 3. If the amount claimed to be due from the contractor or sub-contractors is disputed by them, then said company shall withhold the payment from both till the same has been adjudicated, as in other actions, before some court having jurisdiction of the amount in controversy, and judgment duly rendered, when the company shall pay over the amount of the judgment to the party recovering the same against said contractor or sub-contractors, provided the amount of said judgment is due to said contractor or contractors from said company; if not, then so much as is due on said contract.

Proceedings in case amount due is disputed.

(154.) SEC. 4. This act shall take immediate effect.

Approved April 13, 1871.

AN ACT to provide for the better protection of human life on railroad trains.

(Compiled Laws of 1871, sections 2397-98.)

(155.) SECTION 1. *The People of the State of Michigan enact*, That every railroad company running trains upon any railroad within the limits of this State (or any portion thereof), shall provide and carry at each end of each and every car, owned or used by said company for the conveyance and carriage of passengers, a good and serviceable axe, properly sharpened, provided with a proper helve or handle, and at all times in a condition for immediate use; also, a good and serviceable carpenter's saw, also properly fitted, and at all times in a condition for immediate use, each of which implements shall be suspended by leather beackets or straps upon the inside of said car, near the door thereof, and within easy view, reach, and access of passengers occupying said car; also, in the baggage car of each train, of which any car for the conveyance of passengers forms a part, near the doors thereof, two or more lifting jacks or screws, each of sufficient power to readily lift one end of any loaded car attached to said train, and each of which shall be so carried and secured as to be within easy view, reach, and access of any person or persons occupying said baggage car.

Axes, saws, and lifting-jacks to be carried on all passenger trains.

(156.) SEC. 2. In case any railroad corporation shall run any train of cars within the limits of this State, for the carriage and transportation of passengers, or upon which passengers are transported, without carrying upon each of the passenger and baggage cars forming a part of such train, the axes, saws, and lifting jacks, in the number, place, and manner particularly prescribed in section one of this act, such corporation shall be liable to a penalty of fifty dollars for each and every train so run, to be sued for in the name of the people of this State; and such railroad corporation

Penalty for neglect to carry the same.

shall also be liable for all damages which shall be sustained by any person by reason of such neglect.

Approved April 15, 1871.

AN ACT to regulate the transportation of nitro-glycerine and other explosive substances.

(Act No. 139, Session Laws of 1873.)

Nitro-glycerine and other explosive substances must be plainly labeled when transported.

(157.) SEC. 1. *The People of the State of Michigan enact*, That it shall be unlawful hereafter to bring within this State, or to transport, carry, ship, deposit, store, or place nitro-glycerine, giant powder, dynamites, dualine, or any other substance of which nitro-glycerine shall constitute an ingredient, or that may be exploded by concussion, in or upon any car, vessel, steamboat, or other water-craft or public conveyance, wharf or other public place within the State of Michigan, unless the package or box containing the same shall be labeled on the outside thereof, the words "Nitro-Glycerine, dangerous;" and also the same shall appear as inserted or written in or upon the bill of lading, freight bill or other evidence of transportation; thereby giving the character and nature of the article so shipped: *Provided*, That no provision of this act shall be so construed as to permit the transportation of any of these articles on any passenger train, or freight trains to which a passenger car is attached, or upon any steamboat, propeller, or other vessel used in part or in whole for the transportation of passengers, and that no such materials shall be discharged from any railroad car, boat, or vessel, at any of the wharves, docks, or depots in this State between the hours of six A. M. and six P. M. of the day.

See § (35.)

Proviso—must not be conveyed in passenger trains.

Nor unloaded in daytime.

Penalty for unlawfully shipping, receiving, or selling explosive freight.

(158.) SEC. 2. If any person or persons shall violate the provisions of this act, or if any persons shall knowingly receive, sell, or deliver any of said substances, unlawfully shipped or deposited as aforesaid, each and every person so offending shall be guilty of an offense, and on conviction thereof shall be punished by fine in any sum not exceeding two thousand dollars, or by imprisonment in the State prison not exceeding two years, or both fine and imprisonment in the discretion of the court.

Seizure and sale of such freight.

(159.) SEC. 3. And in any case any party so violating this act cannot be found or reached, the goods so unlawfully shipped shall be seized and sold, one-half of the proceeds of such sale to be given to the informer and one-half to the State.

(160.) SEC. 4. This act shall effect May 15, 1873.

Approved April 22, 1873.

AN ACT to authorize railroad companies to cut decayed or dangerous trees, standing within a certain distance of either side of their track.

(Act No. 27, Session Laws of 1875.)

Authority granted to cut dangerous trees.

(161.) SEC. 1. *The People of the State of Michigan enact*, That any railroad company, owning, controlling, or operating any line or

lines of railroad in this State, be and is hereby authorized and required to cut any tree or trees that are dangerous and liable to fall or blow over and obstruct such track.

Approved March 10, 1875.

AN ACT to prohibit the use of naphtha, or any product of coal oil or petroleum, for lighting passenger cars.

(Act No. 33, Session Laws of 1875.)

(162.) SECTION 1. *The People of the State of Michigan enact,* That every railroad corporation operating or doing business in this State is hereby prohibited from running any passenger cars of its own, or those of any other corporation doing business in this or any other State, which are lighted by naphtha, or by any illuminating oil or fluid, made in part from naphtha, or wholly or in part from coal oil or petroleum. Any railroad corporation which violates the provisions of this act shall forfeit a sum not exceeding five hundred dollars.

Use of kerosene
forbidden for
lighting cars.

Approved March 17, 1875.

AN ACT to require railroad companies to notify the Commissioner of Railroads and coroners of accidents occurring on their roads, and the investigations of the same.

(Act No. 64, Session Laws of 1875.)

(163.) SECTION 1. *The People of the State of Michigan enact,* That every railroad corporation doing business in this State shall cause immediate notice of any accident which may occur on its road, attended with loss of life to any person, to be given to a coroner of the county residing nearest to the place of accident, and shall also give notice within twenty-four hours to the Commissioner of Railroads of any such accident, or of any accident falling within a description of accidents of which said commissioner may, by general regulation, require notice to be given. For each omission to give such notice the corporation shall forfeit a sum not exceeding one hundred dollars.

Companies to
notify commis-
sioner of acci-
dents.

Penalty for fail-
ures.

(164.) SEC. 2. The Commissioner of Railroads shall investigate the causes of any accident on a railroad resulting in loss of life, and of any accident not so resulting, which, in his judgment, shall require investigation.

Commissioner
to investigate
causes.

Approved April 1, 1875.

AN ACT to authorize existing railroad companies to aid by subscription of stock, guarantying of bonds, or making running connections with any road constructed, or to be constructed, under the general laws of this State.

(Compiled Laws of 1871, section 2392.)

(165.) SECTION 1. *The People of the State of Michigan enact,*

Railroad companies may aid each other in building, equipping, and operating roads.

See § (53.)

That it shall be competent for any existing railroad company in this State to aid by subscription of stock, by guarantying bonds, or making running and business arrangements, or in any other form which may be deemed expedient by its board of directors, in the construction of any road, or part of a road constructing, or to be constructed under the general laws of this State, and any company organized under the general laws of this State, may avail itself of such aid, and to make it available may enter into such agreements as shall be deemed expedient by the board of directors of said companies; and when any company organized under the general law shall be unable to finish, or equip and operate its said road, or any section thereof, it may make arrangements with any other railroad company or equip, operate, manage, and work such road, or section thereof, upon such terms as may be deemed just and fair, and for such length of time as may be agreed upon by the board of directors of the two companies.

(166.) SEC. 2. This act shall take immediate effect.

Approved April 3, 1869.

AN ACT to authorize mining companies to subscribe and take stock in plank roads or railroads, and to regulate taxation thereon.

(Compiled Laws of 1871, sections 2671-72.)

Railroads to the mines—mining companies may build.

(167.) SECTION 1. *The People of the State of Michigan enact,* It shall be lawful for any mining company in the Upper Peninsula of this State, organized under any charter, or under the general mining laws of this State, to subscribe for, and take stock in, any company formed to construct canals or harbors and improve the same, or in any plank road or railroad, when such improvement or road is constructed for the purpose of facilitating transportation to the mines; and the amount of its capital so subscribed and paid out, shall, for the purpose of taxation, be deducted from the capital of such mining company, and shall be taxed only as the capital of such river or harbor, plank or railroad company.

Subscriptions of mining companies in aid of.

(168.) SEC. 2. The president and secretary of every such mining company, subscribing or taking stock in any such company shall, on or before the first day of May in each year, make, under their hands, a return to the State Treasurer, verified by their several oaths, stating the amount which such mining company has subscribed and paid in any company herein referred to, and also in what particular company.

(169.) SEC. 3. This act shall take immediate effect.

Approved February 8, 1855.

AN ACT to authorize counties, townships, cities, and villages to raise money by taxation for the payment of their bonds, issued to aid in the construction of railroads.

(Act No. 165, Session Laws of 1875.)

(170.) SECTION 1. *The People of the State of Michigan enact,* That the board of supervisors of any county, the township board of any township, the common council of any city, or the common council or board of trustees of any village which issued its bonds to aid in the construction of any railroad in this State prior to the twenty-sixth day of May, A. D. eighteen hundred and seventy, are hereby authorized and empowered to provide, by a tax to be collected from the taxable property in any such county, township, city, or village, such sum or sums of money as may be necessary to pay the principal and interest due or to become due upon any such bonds issued by such county, township, city, or village, and which had been negotiated prior to the twenty-sixth day of May, eighteen hundred and seventy, or upon any judgment obtained upon any such bond against any county, township, city, or village.

Boards of supervisors, etc., authorized to provide for payment of railroad bonds.

(171.) SEC. 2. The board of supervisors of any county, the township board of any such township, the common council of any such city, or the common council or board of trustees of any such village, at the time of raising the tax for general county, town, city, or village purposes, may cause the amount necessary to be raised by tax for the payment of the principal and interest due upon such bonds, or which shall become due upon them within one year next after the time of raising said general tax according to the conditions of such bonds, to be placed in the general assessment roll of said county, township, city, or village, in a separate column, which said tax shall be levied, assessed, and collected in the same manner and subject to the same provisions as other general taxes for county, town, city, or village purposes.

Manner of levy and assessment of same.

(172.) SEC. 3. Any county, township, city, or village may provide for the payment of the principal and interest due and unpaid at the time this act shall go into effect, upon such bonds, by the issue of new bonds, at a rate of interest not exceeding ten per cent per annum, and for such sums each, and for such a length of time as the board of supervisors, the township board, the common council of the city, or the common council or board of trustees of the village, shall direct. Such bonds shall have attached thereto the necessary and usual interest coupons, corresponding in dates and numbers with the bonds to which they are attached. Such bonds shall, if issued by a county, be executed by the chairman of the board of supervisors and the clerk of such board; if by a city, they shall be executed by the mayor and clerk, or recorder thereof, as the case may be, under the seal of said city; and if issued by a township, they shall be executed by the supervisor and clerk thereof; and if issued by a village, they shall be executed by the president and clerk, or recorder thereof, as the case may be.

New bonds may be issued in lieu of old ones.

Execution of same.

(173.) SEC. 4. In case any county, township, city, or village shall issue any bonds in accordance with the provisions of section three of this act, such county, township, city, or village shall, each year,

Payment of said new bonds.

by its proper authorities, so long as such bonds remain unpaid, levy, assess, and collect, upon the taxable property of such county, township, city, or village, a sufficient sum of money to pay all bonds, or the interest upon the same as the same shall become due; and the full faith and credit of any county, township, city, or village, so issuing any such bonds, is hereby pledged for the full payment of both principal and interest thereon; and the same are hereby made a valid and legal charge upon the taxable property of the county, township, city, or village issuing the same.

Proceedings
when bounda-
ries have been
changed.

(174.) SEC. 5. In case the boundaries of any county, township, city, or village shall have been enlarged, or diminished, since the time of issuing any of the bonds mentioned in section one of this act, the taxes hereinbefore provided for, shall be collected only from the taxable property within the boundaries of such county, township, city, or village as they existed at the time of the issuing of such bonds.

(175.) SEC. 6. This act shall take immediate effect.

Approved April 30th, 1875.

AN ACT to fix the term of office and confirm the powers of the board of control of railroads.

(Compiled Laws of 1871, sections 2379-53.)

Board of Con-
trol of Railroads
perpetuated.

(176.) SECTION 1. *The People of the State of Michigan enact,* That the Board of Control of Railroads, created by the provisions of section eight, of act number one hundred and twenty-six, of the session laws of eighteen hundred and fifty-seven, being an act disposing of certain grants of land made to the State of Michigan for railroad purposes, by act of Congress, approved June third, eighteen hundred and fifty-six, be and they are hereby continued and perpetuated, until abolished by act of the Legislature.

Term of office.

(177.) SEC. 2. The term of office of the commissioners, constituting said Board of Control, shall be four years from the date of their appointment (unless appointed to fill a vacancy), and the term of office of the present commissioners shall terminate and expire at the time of the approval by the Governor of this act.

Appointment.

(178.) SEC. 3. At the expiration of said term as established by this act, six commissioners shall be nominated by the Governor and confirmed by the Senate, who, with the Governor, shall constitute said Board of Control, whose duty it shall be to manage and dispose of all lands appropriated for the construction of railroads as provided in act number one hundred and twenty-six, of session laws of eighteen hundred and fifty-seven, and all acts amendatory thereto, and to do any and all other acts necessary and proper respecting the construction of said railroads, which shall be prescribed by law; the Governor shall be *ex officio* the president of said board, and any vacancies that may occur between the sessions of the Legislature, by death, resignation, or otherwise, shall be filled by the Governor until the first meeting of the Legislature after such vacancy shall occur.

Duties.

Vacancies, how
filled.

(179.) SEC. 4. The commissioners shall receive four dollars per day and necessary expenses for each day that they shall be actually employed in the duties of their office; the amount of such allowance and expenses shall be apportioned among the different companies in such a manner as the board shall deem equitable, and shall be paid by the several companies, from time to time, as the board may direct; and all acts of the said Board of Control, in the exercise of the general powers of transfer, supervision, and control, heretofore conferred by law, are hereby ratified and confirmed.

Compensation
of.

(180.) SEC. 5. All acts and parts of acts contravening the provisions of this act, are hereby repealed.

Repealing
clause.

Approved March 21, 1865.

AN ACT to amend sections one, two, and three of an act entitled "An act to authorize and empower the board of control of State swamp lands to make an appropriation of State swamp lands to aid in the construction of a railroad from the straits of Mackinaw to Marquette harbor on Lake Superior," approved March twenty-one, eighteen hundred and seventy-three, and an act amendatory thereof, approved March twenty-four, eighteen hundred and seventy-four.

(Act No. 81, Session Laws of 1875.)

(181.) SECTION 1. *The People of the State of Michigan enact, That* sections one, two, and three of an act entitled "An act to authorize and empower the board of control of State swamp lands to make an appropriation of State swamp lands to aid in the construction of a railroad from the straits of Mackinaw to Marquette harbor on Lake Superior," being act number thirty-six of the session laws of eighteen hundred and seventy-three, approved March twenty-one, eighteen hundred and seventy-three, and the act amendatory thereof, approved March twenty-four, eighteen hundred and seventy-four, be amended as follows, viz:

Amending
clause.

(182.) SECTION 1. *The People of the State of Michigan enact, That* to secure the early construction of a railroad from the straits of Mackinaw to Marquette harbor on Lake Superior, and for the purposes of drainage and reclamation, the board of control of State swamp lands are hereby authorized and empowered, if by them deemed expedient, and to the best interest of the State and to the section of country to be penetrated by said railroad, to appropriate not to exceed sixteen sections of State swamp lands per mile to any railroad company that shall construct and complete such railroad in running order on or before December thirty-first, eighteen hundred and seventy-seven: *Provided, however, That* if from the financial condition of the country and the present discredit of all railway investments, difficulties shall occur in raising the money for the construction of said railroad, which may delay its inception and progress, the rights of the company to the grants and privileges hereby authorized shall not be forfeited by reason of the non-

Grant of land.

Proviso—extension
of time.

- Proviso—idem. completion of the road at the time specified: *Provided*, The progress of the work be such at said time as to render the completion thereof assured to the satisfaction of the said board of control, within a reasonable time thereafter, not exceeding one additional year, and the same shall be actually completed within that time. Said board of control of State swamp lands in their discretion may award and convey to the company constructing said railroad, the number of acres earned, upon the completion of any twenty mile sections of said railroad: *Provided further*, That said sections are completed ready for the rolling stock, and the said Board of Control shall deem the same necessary to facilitate the completion of said railroad.
- Award of grant in sections.
- Proviso—idem.
- Reservation of lands. (183.) SEC. 2. To promote and further the construction of said railroad, and for the better protection of the interests of the State, the Board of Control as aforesaid shall have full power and authority over said lands, the reservation necessary, and the privileges requisite in the application of such lands to such a purpose: *Provided*, That such lands shall be selected from the vacant and unreserved State swamp lands in the counties of Mackinaw, Chippewa, Schoolcraft, and Marquette: *And provided further*, That the said board of control shall make no contract exempting said lands from taxation for any period longer than the time during which they shall remain unsold by the railroad company which shall become entitled to the privileges of this grant: *Provided*, No such exemption shall in any event be for a longer term than sixteen years from the time such lands are patented: *And provided further*, That in no event shall any claim exist against the State for any deficiency in the number of acres that may be donated under the provisions of this act, it being the intention to provide for the donation of all the unappropriated State swamp lands in the counties hereinbefore named, not exceeding the sixteen sections to the mile.
- Proviso—location of same.
- Proviso—exemption from taxation.
- Proviso—deficiency of grant.
- Contract may be amended, etc. (184.) SEC. 3. The said Board of Control shall have power to modify or amend any contract already made for the construction of said railroad, or negotiate any new contract with any new or other company, and to secure the construction of the said railroad may use the increased power and authority given them by this act, and any contract made within the authority conferred upon them by this act shall be valid and binding upon all the authorities of this State.
- (185.) SEC. 2. This act shall take immediate effect.
Approved April 15, 1875.

AN ACT to appropriate lands to aid in the construction of a railroad from the village of L'Anse, in the county of Baraga, to the village of Houghton, in the county of Houghton.

(Act No. 195, Session Laws of 1875.)

- Grant of land. (186.) SECTION 1. *The People of the State of Michigan enact*, That to secure the early construction of a railroad from the village of L'Anse, in the county of Baraga, to the village of Houghton,

in the county of Houghton, and for the purposes of drainage and reclamation, there are hereby appropriated five sections of State swamp lands per mile.

(187.) SEC. 2. The State swamp lands hereby appropriated and reserved to further the construction of said railroad, are those lying in the counties of Baraga, Houghton, and Keweenaw, and thirty sections in the eastern and southern portions of the county of Ontonagon. Location of lands.

(188.) SEC. 3. To further the construction of said railroad and for the better protection of the interests of the State, the Board of Control of State Swamp Lands shall have full power and authority over said lands, the reservations necessary, and the limitations and privileges requisite in the application of such lands to such purpose. Swamp land board to control grant.

(189.) SEC. 4. Said board may confer such lands upon any corporation that shall enter into bonds to the State of Michigan, satisfactory to said board, to complete said road within five years from the time the said lands are conferred upon such corporation; said road to be of the standard gauge of four feet eight and one-half inches. Powers of board relative to.

(190.) SEC. 5. And if said lands shall be conferred by said board upon any corporation under the provisions of this act, such corporation shall be entitled to receive patents for fifty sections of lands upon the completion and acceptance by said board of any section of ten continuous miles. Award of grant may be in sections.

(191.) SEC. 6. Said lands shall become taxable as fast as they are conveyed to said railroad company.

(192.) SEC. 7. This act shall take immediate effect.

Approved May 1, 1875.

AN ACT to promote the early construction of a railroad through the Menominee Iron Range.

(Act No. 225 of the Session Laws of 1875.)

(193.) SECTION 1. *The People of the State of Michigan enact,* Grant of lands.
That for the purpose of encouraging the early construction of a line of railroad from Escanaba, in the county of Delta, westerly by way of Spaulding, thence northwesterly through the Menominee Iron Range, as far west and south as section thirty-four, town forty north, of range thirty west, and from thence to the Michigamme river, and for the purposes of drainage and reclamation, the State hereby grants to the Menominee River Railroad Company, to aid in the construction of portions of such railroad on the line aforesaid, to the extent of seven sections of the swamp lands belonging to this State, per mile of said railroad to be so constructed, to be selected from the vacant and unreserved State swamp lands belonging to this State, in any portion or portions of the counties of Menominee and Delta, for the construction of that portion of said railroad from Escanaba, Delta county, to the north line of said Menominee county, and for the construction of said railroad from said Recipients.
Line of road to be built.

When title to vest.

Limitation of grant.

Proviso—yearly construction.

Proviso—road now built not to share in grant.
Company to file plats, etc.

Land to be reserved from sale.

Proviso—condition of reservation.

Selection of lands, etc.

Exemption from taxation.

north line of Menominee county to the Michigamme river, to be selected from the vacant and unreserved State swamp lands belonging to this State, still remaining vacant and unreserved in the counties of Menominee and Delta aforesaid; but the title to the same shall not vest in said company except as their railroad progresses. Should said railroad company, accepting the provisions of this act, its successors or assigns, fail to construct ten consecutive miles of their line of road within one year from the passage of this act, and ten miles of railroad each year thereafter, then all grants of land herein made for that portion of the line of railroad not completed shall revert to the people of this State: *Provided, however,* That if said railroad shall, in any one year, construct more than ten miles of road hereinbefore provided for, the excess over said ten miles shall be credited to said company on account of the amount of road required to be built by it in the next succeeding year or years; and said company shall be entitled to receive, of the lands hereby granted, an amount equivalent to seven sections of land for each mile of road so actually constructed: *Provided,* That no lands shall be granted to said railroad company for any railroad or portion of railroad now built.

(194.) SEC. 2. As soon as said railroad company, accepting the provisions of this act, shall actually survey and adopt their line of railroad or any part or parts thereof, on the route indicated, they shall deposit from time to time a plat or plats thereof in the office of the Secretary of State, and a plat or plats thereof with the Commissioner of the Land Office; and it shall be the duty of such Commissioner, upon the passage of this act and the acceptance of the provisions thereof by said company, as in this act provided, to withdraw from sale all the vacant and unreserved swamp lands belonging to this State in the counties of Menominee and Delta, until such railroad company, accepting the provisions of this act, shall have filed with the Commissioner of the Land Office a list of the said swamp lands so selected by it for the construction of its line of road: *Provided,* Said list of said lands shall have been so filed with the Commissioner of the Land Office within one year from the date of the deposit of the plat of its said line of railroad with said Commissioner of the Land Office.

(195.) SEC. 3. On the list of said swamp lands so selected by said railroad company being filed with the Commissioner of the Land Office, as aforesaid, it shall be his duty to withdraw from sale the swamp lands embraced in said list to the extent and amount of seven sections per mile of the whole of said line of railroad so proposed to be constructed by said railroad company, to be disposed of according to the provisions of this act; and to restore all the swamp lands belonging to this State, within said limits so remaining unselected by said railroad company, to the same condition they were in before said withdrawal from sale, for the purpose of sale or entry.

(196.) SEC. 4. All lands granted by this act to aid in the construction of said line of railroad shall be and are exempt from all taxation whatsoever, for five years from and after the date of this grant.

(197.) SEC. 5. Before any lands shall be conveyed, under the provisions of this act, by the Governor, he shall personally, or by some authorized agent, examine each section of ten miles or more of completed railroad, and if, after full examination, he shall approve of the construction of said ten miles or more of railroad, as in section one of this act provided, it shall be his duty to certify the same to the Commissioner of the State Land Office, and patents shall be issued to the railroad company constructing said ten miles or more of road, by the Governor, for the lands, as provided in this act, and so on continuously for each division of ten miles or more of road actually constructed, until the completion of said line of railroad.

Acceptance of road.

(198.) SEC. 6. Upon the filing by said company in the office of the Secretary of State, of a notification of its acceptance of the provisions of this act, the same shall thereupon become obligatory upon the State as well as upon said company: *Provided*, That said notification shall be given within sixty days from and after the passage of this act.

This act in the nature of a contract.

Proviso—limitation of time.

(199.) SEC. 7. This act shall take immediate effect.

Approved May 3, 1875.

AN ACT prescribing the duties of the Auditor General in certain cases, and his compensation therefor.

(Act No. 41, Session Laws of 1873.)

(200.) SECTION 1. *The People of the State of Michigan enact*, That it shall be the duty of the Auditor General to obtain from the office of the Secretary of the Interior, a full list of all lands earned and patented by any railroad company of the State under any law granting public lands for the purpose of aiding in the construction of such railroads, which may be liable to taxation, and forward a copy of such lists of said lands to the county treasurer of the proper county in which the same are located, on or before the first day of April in each year.

Taxable railroad lands, list of.

See §§ (203-7.)

(201.) SEC. 2. The Auditor General shall receive only such compensation for his services, as required by section one of this act, as shall be necessary to pay the proper officer at Washington for making and forwarding the lists aforesaid, and the amount so paid shall be audited by the Board of State Auditors, and paid to the Auditor General out of the treasury of the State.

Pay of Auditor General.

See § (206.)

(202.) SEC. 3. This act shall take immediate effect.

Approved March 22, 1873.

AN ACT to provide for the assessment and taxation of lands known as railroad lands.

(Act No. 125, Session Laws of 1873.)

(203.) SECTION 1. *The People of the State of Michigan enact*, That all lands known as railroad lands, situated in this State, which may have been heretofore earned or obtained by any per-

All railroad lands to be taxed.

son, company, or corporation, by or for the construction of any railroad in this State, shall be assessed and taxed in the same manner that all other lands are assessed and taxed.

Liab. as soon as
earned.

(204.) SEC. 2. All lands that may hereafter be so earned or obtained by any person, company, or corporation, by constructing any railroad in this State, shall be liable to be assessed and taxed in the same manner that other lands are assessed and taxed, when, and as soon as the certificate of the Governor is executed to the Secretary of the Interior, showing that such person, company, or corporation is entitled to receive patents for such lands.

Lists of such
lands to be sent
to county treas-
urers.

(205.) SEC. 3. To enable the proper county and township officers to faithfully carry out the provisions of this act, it shall be the duty of the Auditor General forthwith to obtain from the office of the Secretary of the Interior, at Washington, a full and complete list of all lands earned by or patented to any and all railroad companies, under any law granting public lands for the purpose of aiding in the construction of any railroad in this State, which may be liable to assessment and taxation under the provisions of this act, and forward a copy of such lists of said lands to the county treasurer of the proper county in which the same are located, on or before the first day of April, in each year; and it shall be the duty of the county treasurer, on or before the fifteenth day of April in each year, to forward to the supervisor of each township in his county, a copy of such lists of such lands as are located within their respective townships.

See § (200.)

Pay of Auditor
General.

(206.) SEC. 4. The Auditor General shall receive only such compensation for his services as required by section three of this act, as shall be necessary to pay the proper officer at Washington, for making and forwarding the lists aforesaid, and the amount so paid shall be audited by the Board of State Auditors, and paid to the Auditor General out of the treasury of the State.

See § (201.)

Repealing
clause.

(207.) SEC. 5. All laws and parts of laws in conflict with the provisions of this act, are hereby repealed.

(208.) SEC. 6. This act shall take immediate effect.

Approved April 19, 1873.

AN ACT to reduce the penalty for non-payment of taxes on lands known as railroad lands.

(Act No. 172, Session Laws of 1873.)

One-half of pen-
alty remitted.

(209). SECTION 1. *The People of the State of Michigan enact,* That one-half the interest penalty required to be paid by section ninety-three of "An act to provide for a uniform assessment of property, and the collection and return of taxes thereon," approved April six, eighteen hundred and sixty-nine, which penalty was incurred by several of the land grant railroads, so-called, while said section was in force, by the failure of the roads or companies to pay the taxes of eighteen hundred and seventy-three, on what are known as railroad lands, assessed to them, be and the same is hereby remitted to said roads or companies: *Provided,* The taxes

are paid in the counties where the lands lie, within ninety days from and after the approval of this act.

Proviso—taxes to be paid in the counties.

(210.) SEC. 2. In the payment of said taxes, the treasurers of the several counties wherein said lands lie, are hereby directed to collect only one-half of the interest penalty on such railroad lands of such penalty.

Duty of county treasurers under this act.

(211.) SEC. 3. If it shall appear that any of said railroad lands shall have been struck off at the sale thereof, in October, A. D. eighteen hundred and seventy-four, to individuals, such lands shall be subject, upon redemption, to the penalty of twenty-five per cent, to be paid to said purchaser, and the remainder of the penalty shall be and is hereby remitted to said roads.

Railroad tax lands already sold—penalty on redemption.

(212.) SEC. 4. This act shall take immediate effect.

Approved May 1, 1875.

AN ACT limiting the right of the Auditor General to cancel the taxes on non-resident lands returned as delinquent for the non-payment of taxes in certain cases.

(Act No. 181, Session Laws of 1873.)

(213.) SECTION 1. *The People of the State of Michigan enact,* That the Auditor General shall not cancel the taxes assessed and levied on any lands heretofore granted in aid of the construction of certain railroads in this State, and commonly called railroad lands, and that have been patented to or earned by certain railroad companies, commonly called land-grant railroad companies, unless upon the order or decree of the Supreme Court of this State.

Cancellation of taxes upon railroad land-grants, how authorized.

Approved April 29, 1873.

AN ACT to provide for the taxation of persons, associations, and corporations doing business in this State, in running sleeping and palace cars over or upon the several railroads in this State, and party or parties owning, running, or being interested in any "special," or "fast," or "through," or "colored," or other freight line (not owned exclusively by railroad companies), or any car-loading company doing business in this State, or running cars over any of the railroads in this State.

(Act No. 173, Session Laws of 1873.)

(214.) SECTION 1. *The People of the State of Michigan enact,* That every railroad, or other corporation, or association, or co-partnership, or party, carrying passengers in any palace car, drawing-room car, sleeping car, or other car over or upon any railroad in this State, or any portion thereof, and for the right to a place in which car such passengers are required to pay any sum in addition to the amount charged for passenger tickets that would secure such passengers seats in the ordinary passenger coaches, shall, on or before the first day of February of each year, pay to the State Treasurer, on the statement of the Auditor General, an annual

Palace and sleeping car companies to be taxed three per cent of gross receipts.

tax of three per cent upon their gross receipts earned in this State, whether derived from such additional charge upon passengers, or from any other source.

"Special," "colored," etc., freight lines to be taxed two per cent of gross receipts.

(215.) SEC. 2. Every corporation, association, or copartnership, or party owning, running, or being interested in any "special," or "fast," or "through," or "colored," or other freight line (not owned exclusively by railroad companies), or any car-loaning company, doing business in this State, or running cars over any of the railroads in this State, shall, on or before the first day of February of each year, pay to the State Treasurer, on the statement of the Auditor General, an annual tax of two per cent upon its gross receipts earned in this State and derived from loaning, renting, or hiring its cars, to any railroad, or other corporation, or association, or copartnership, or party.

Computation of said taxes.

(216.) SEC. 3. The taxes provided for by sections one and two of this act shall be computed upon the sworn statement of two directors of each corporation liable to pay such tax, or in case of other association or copartnership, then upon the sworn statement of two of the officers or one of the copartners thereof, and in case of any party or parties other than corporations or associations, or copartnerships, then upon the sworn statement of such party or parties, which statement shall be made and filed with the Auditor General in the month of January of each year, and shall set forth the amount of money received in the State of Michigan during the calendar year next preceding said month of January; and also, the amount of money received out of the State of Michigan, but earned within the said State during the same period. And such taxes shall be in lieu of all other taxes upon the cars used for the purposes mentioned in sections one and two of this act.

Exemption from all other taxes.

Lien for tax imposed.

(217.) SEC. 4. The State shall have a lien upon all the property of each of the parties mentioned in sections one and two of this act, whether corporations or otherwise, for all the taxes herein imposed, and for interest thereon, and for penalty for delay in payment thereof, and for all dues which may accrue to the State from said parties, which lien of the State shall take precedence of demands, judgments, decrees, or other liens of whatever character.

Penalty for refusal to report receipts.

(218.) SEC. 5. Failure to make a report as required, and within the time limited in section three of this act, shall be construed as a refusal to make such report on the part of the corporation, association, or party so failing; and on the refusal of any corporation, association, or party to make said report, the proceedings shall be in all respects, and with like effect, and in the manner prescribed by "An act to authorize the Auditor General to assess by estimate specific taxes upon corporations which neglect or refuse the report as required by law upon which specific taxes are computed, and to provide for the collection of the same," approved March twenty-ninth, eighteen hundred and seventy-two, and the acts supplementary or amendatory thereto, or extending the provisions thereof, except that if the Auditor General has no knowledge of there being an office of such corporation or other party in this State, then the said Auditor General may issue his warrant in the same man-

ner, and with like effect, to the sheriff of any county through which any of the cars used for the purposes mentioned in sections one and two of this act may pass.

(219.) SEC. 6. Any corporation, or other party, subject to the specific tax imposed by this act, which shall willfully make a false report, shall be liable to a penalty of one thousand dollars, which penalty shall be deemed to have accrued at the date of such false report, and to the payment of double the rate of taxation imposed by sections one and two hereof.

Penalty for reporting receipts falsely.

(220.) SEC. 7. If the taxes above imposed are not paid within the time prescribed, the Auditor General may issue his warrant to the sheriff of any county in the State, commanding him to forthwith levy the same, together with ten per cent for his fees, by distress and sale of any of the property of the corporation, or other party neglecting or refusing to pay such tax, wherever the same may be found in this State, and to pay over the same, reserving his fees, to the State Treasurer, within ten days after the same is collected.

Sheriff's levy in case of refusal to pay tax.

(221.) SEC. 8. The sheriff shall not give less than five nor more than ten days' public notice of the seizure of such property, and of the time and place of sale thereof, by advertisement, to be posted up in three public places in the township, city, or village where such sale is to be made, and such sale shall be by public auction, in the township, city, or village where such property is situated. The sheriff shall send a copy of such notice by mail to the corporation or party whose property is to be sold, if he can ascertain the postoffice address of such corporation or party.

Notice of seizure and sale of property.

(222.) SEC. 9. At the time advertised the sheriff shall proceed to offer such property for sale. If there be no bidders therefor, or if for other reasons he deem it inexpedient to proceed with such sale, said sheriff may adjourn such sale to such other time, not exceeding thirty days, as he shall determine, when he shall again proceed to offer such property for sale, and shall sell the same to the highest bidder. If the property so distrained cannot be sold, or if it be sold but for an amount insufficient to pay the tax and fees, the sheriff shall levy upon other property of such corporation, or party, if any can be found within the county, and shall advertise and sell the same as provided above, and so continue until the warrant is satisfied. If property sufficient cannot be found, the sheriff shall return a statement to that effect to the Auditor General, who may, for so much of the tax as is so returned as uncollected, issue another warrant with like effect to the sheriff of another county, who shall proceed in the manner as above prescribed.

Sheriff's sale. Adjournment thereof.

Proceedings in case tax-warrant is not satisfied.

(223.) SEC. 10. This act shall take immediate effect.

Approved April 29, 1873.

AN ACT to require railroad corporations to keep open ticket offices at passenger stations for the sale of tickets, thirty minutes before the advertised time of the starting of all passenger trains, and to compel conductors to call out the names of all stopping stations prior to reaching the same.

(Compiled Laws of 1871, section 2404.)

Keeping ticket
office open.

See § (37.)

Announcement
of stations in
each car.

See § (37.)

Penalty for vio-
lation of law.

(224.) SECTION 1. *The People of the State of Michigan enact,* That all railroad companies doing business in this State by running cars for the conveyance of passengers shall keep their ticket offices open for the sale of tickets at least thirty minutes previous to the time advertised for the departure of all passenger trains from every passenger station, which any such passenger train, by notice given, is to start from or stop at between the hours of seven o'clock in the morning and eleven o'clock in the evening, and that the conductors of all such passenger trains shall announce, or cause to be announced, the name of every station, in each passenger car of every such train, within a reasonable time before the arrival of any passenger train, at every station at which said train, from notice given, is to stop. For each violation of the provisions of this section, the railroad company whose employes do not comply with the provisions of this section in every respect, shall forfeit the sum of one hundred dollars for each violation of the same, one-half of which sum shall be paid to the person who, in any way, is injured by such violation, the other half to be paid to the person causing said railroad company to be prosecuted therefor.

Approved April 17, 1871.

AN ACT to require railroad corporations within this State to cut and destroy the noxious weeds which grow on the land occupied by them.

(Compiled Laws of 1871, Sections 2376-77.)

Destruction of
weeds on rail-
road property
enjoined.

Penalty for neg-
lect.

(225.) SECTION 1. *The People of the State of Michigan enact,* That all railroad corporations doing business in this State, shall, between the first day of July and the twentieth day of August, in each year, cause all noxious weeds growing on the lands occupied by them in any city, village, or organized township of this State, to be cut down and destroyed.

(226.) SEC. 2. In case any railroad company shall refuse or neglect to comply with the requirements specified in the first section of this act, they shall be liable in a penalty of twenty-five dollars, to be prosecuted for in an action of debt by any person feeling himself aggrieved. Said suit may be brought before any justice of the peace of the county, who shall require of the complainant surety to pay the costs in case he fails to maintain his action. Summons may be served on any agent or officer of the company.

Approved April 15, 1869.

AN ACT to provide for the payment to railroad companies of certain moneys collected by the Agent of the State from trespassers upon the lands of said companies.

(Act No. 127, Session Laws of 1875.)

(227.) SECTION 1. *The People of the State of Michigan enact,* That the Board of State Auditors be and are hereby directed to audit and allow to the several railroad companies of this State the amount of moneys collected, or which may hereafter be collected and paid into the State Treasury (less the expenses incident to such collection) from trespassers upon lands which were granted by the United States to this State for railroad purposes, by act of June three, eighteen hundred and fifty-six, the title to which has become vested in such companies, upon proof satisfactory to said board, that such moneys were collected from trespasses actually committed upon the lands of such railroad companies, and that the title of such lands has actually become vested in the companies making application for such moneys. Accounts of trespass moneys to be audited.

(228.) SEC. 2. When such amount shall have been ascertained and audited, said board shall certify to the Auditor General the amount thereof, who shall draw his warrant upon the State Treasurer, payable to the order of the proper officer of such railroad companies, and the State Treasurer shall pay the same out of the fund to which said moneys may have been credited: *Provided,* That such companies shall not be indebted to the State for specific State tax, or otherwise. Payment of claims so adjusted.

Approved April 27, 1875.

AN ACT to repeal an act entitled "An act to regulate the transportation of freight and passengers, and the management of railroads of this State not incorporated under an act entitled 'An act to provide for the incorporation of railroad companies,' as approved February twelfth, eighteen hundred and fifty-five," approved April seventeen, eighteen hundred and seventy-one.

(Act No. 143, Session Laws of 1875.)

(229.) SECTION 1. *The People of the State of Michigan enact,* That an act entitled "An act to regulate the transportation of freight and passengers, and the management of railroads in this State not incorporated under an act entitled 'An act to provide for the incorporation of railroad companies,' as approved February twelfth, eighteen hundred and fifty-five," approved April seventeen, eighteen hundred and seventy-one, being sections two thousand and three hundred and ninety-nine, two thousand four hundred, two thousand four hundred and one, two thousand four hundred and two, and two thousand four hundred and three, of the compiled laws of eighteen hundred and seventy-one, be and the same is hereby repealed. Act repealed.

Approved April 28, 1875.

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PUBLIC STATUTES

OF

NEW HAMPSHIRE

RELATING TO RAILROADS

IN FORCE ON AND AFTER APRIL 1, 1893.

APPENDIX TO RAILROAD COMMISSIONERS' REPORT.

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PUBLIC STATUTES OF NEW HAMPSHIRE

RELATING TO RAILROADS,

IN FORCE ON AND AFTER APRIL 1, 1893.

CHAPTER 155.

RAILROAD COMMISSIONERS.

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SECTION 1. There shall be a board of railroad commissioners consisting of three competent persons. No person who owns railroad stock, or who is employed by a railroad corporation, or who is otherwise interested is one, shall be eligible to the office. No more than two members shall be appointed from one political party.

SECT. 2. The members of the board shall be appointed by the governor with the advice of the council; and any member may be removed by the same authority whenever the public good requires it. One member shall be appointed each year, to succeed a member whose term of office expires on the first day of January of the next year, and shall hold office for three years from that date unless sooner removed. The chairman of the board shall be appointed and commissioned as such. Whenever a vacancy occurs, an appointment shall be made for the unexpired part of the term. Members of the board shall hold office until their successors are appointed and qualified.

SECT. 3. The board shall choose from its members a clerk, who shall keep a full and accurate record of the proceedings of the board, and shall serve such notices and perform such other duties as the board may direct.

SECT. 4. The board shall be provided with an office in the state house, or in some other suitable place in the city of Concord, in which its records, documents, and books shall be kept.

SECT. 5. The annual salary of the chairman shall be twenty-five hundred dollars, that of the clerk twenty-two hundred dollars, and that of the other member two thousand dollars, and shall be paid from the state treasury in equal quarterly payments. They shall have free transportation over the railroads in the state. They shall not be entitled to other compensation for any act done in their official capacity.

SECT. 6. The board may expend not exceeding one thousand dollars annually in employing stenographers, experts, accountants, and others whose assistance they may require in the performance of their duties, in procuring necessary books, maps, statistics, stationery, and other supplies, and in defraying the incidental expenses of the office, and the same shall be paid from the state treasury. Any person so employed by them shall have free transportation over the railroads in the state while travelling in the performance of the duties of such employment.

SECT. 7. The expenses of the board, including the salaries of its members, shall be borne by the railroad corporations in proportion to their gross receipts. The board of equalization, on or before the first day of October in each year, shall apportion the same among the corporations, and assess upon each its just proportion thereof, according to its gross receipts for the year ending on the thirtieth day of the preceding June. Such assessments shall be collected as the railroad taxes are collected.

SECT. 8. No member of the board shall become a stockholder or otherwise interested in any railroad corporation doing business in the

state, nor shall render any professional service for, or be directly or indirectly a party to, any contract with any such corporation, except a contract for the transportation of persons or property; nor shall be a member of a firm which renders such service or is a party to any such contract; nor shall he directly or indirectly receive any commission, bonus, discount, present, or other special benefit whatsoever from any such corporation while he remains in office. It shall be the duty of the governor and council to forthwith remove any member who shall violate any of these provisions.

SECT. 9. No member shall sit upon the hearing of any question which the board is to decide in a judicial capacity, who would be disqualified for any cause, except exemption from service, to act as a juror upon the trial of the same question between the same parties in an action at law. This shall not be construed to apply to inquests in accident cases.

SECT. 10. If a member shall be disabled, or shall be disqualified to act in any particular case pending before the board, the governor, upon application, shall appoint a commissioner to take his place. The commissioner so appointed shall be paid from the state treasury ten dollars a day for his services, and shall have free transportation over the railroads of the state while travelling in the performance of his duties. His account for services shall be audited and allowed by the governor and council.

SECT. 11. The railroad commissioners shall have general supervision of all railroads within the state. They may prescribe the forms in which the accounts of railroad corporations shall be kept. They shall keep informed as to the physical condition of the roads; as to the manner in which they are operated, with reference to the requirements of the laws and to the security and accommodation of the public; as to the financial condition of the corporation to which they belong; and as to their receipts and expenditures. They shall examine the railroads at least once each year, and the books, accounts, and papers of the corporations from time to time, as they may have occasion in the performance of their duties.

SECT. 12. They shall investigate the causes of all accidents happening upon the railroads of the state, resulting in the loss of life, and all other accidents so happening which in the opinion of the board ought to be investigated.

SECT. 13. They shall fix, upon the petition of any party interested, charges to be made by proprietors of railroads within the state for the transportation of persons and freight, and shall change the same from time to time as the public good shall require, subject to existing limitations. The rates so fixed shall be binding upon the proprietors.

SECT. 14. Whenever the commissioners are of opinion that repairs of a railroad are necessary, or that there should be additions to its rolling-stock, or that new stations should be built or existing ones should be changed or repaired, or that the rates for transporting persons or freight should be changed, or that there should be changes in the mode of operating the railroad or of conducting its business, they shall so inform the proprietors of the railroad, in writing, and of the nature and extent of the improvements, repairs, or changes which they think ought to be made, and shall insert in their next annual report an account of their proceedings and recommendations.

SECT. 15. Whenever, in the judgment of the commissioners, the proprietors of a railroad are violating or neglecting to comply with any law of the state in respect to railroads, or with any lawful direction given to them by the board, they shall give notice thereof, in writing, to such proprietors; and if the violation or neglect shall continue after such notice, the board shall forthwith present the facts to the attorney-general, or may institute and prosecute, in the behalf and at the expense of the state, such proceedings as in the opinion of the board will insure compliance with the laws.

SECT. 16. If the mayor and aldermen of a city, or the selectmen of a town, or twenty or more legal voters of a city or town, within which a part of a railroad is located, shall make complaint in writing to the board that the condition of the road is not suitable, or that it is not operated according to law, the board shall appoint a time and place of hearing upon such complaint, and give reasonable notice thereof to the petitioners and the proprietors of the road; and, after hearing the parties, shall adjudge whether the complaint is well founded. The board shall give notice of the decision to the parties, and shall insert an account of the proceedings and decision in the next annual report of the board.

SECT. 17. No request or advice of the board shall impair the legal duties and obligations of a railroad corporation, or its liability for the consequences of its acts or negligence, or the acts or negligence of its officers, agents, or servants.

SECT. 18. The proprietors of every railroad within the state shall exhibit their books, accounts, and papers to the board, and allow the board to examine them whenever requested; and shall furnish to the board a copy of any lease or contract existing between the proprietors and others in respect to their railroad, and any information concerning the condition, management, and operation of their railroad and the financial standing of their corporation, which the board calls for, within a reasonable time after the call is made.

SECT. 19. If the proprietors of a railroad refuse or neglect to comply with any of the provisions of the preceding section, or with any lawful directions given by the board, they shall forfeit a sum not exceeding one thousand dollars for every such refusal or neglect.

SECT. 20. Any commissioner may summon witnesses in behalf of the state, to appear before the board to testify in cases investigated by it. If a witness so summoned fails to appear, or to give testimony in accordance with the summons, any justice of the supreme court, in term time or vacation, upon application of the board, shall compel the witness to attend before the board and testify, as if he had been duly summoned to testify before the court in an action there pending. The fees of witnesses so summoned shall be the same as of witnesses before the supreme court, and shall be paid from the state treasury.

SECT. 21. The commissioners are severally authorized to administer oaths to witnesses appearing before them, and to persons having occasion to take oaths in the course of official business with the board.

SECT. 22. The board shall prescribe what information the annual reports to be made by the proprietors of railroads to the board shall contain, and the form of such reports, and shall seasonably furnish the proprietors with blanks upon which to make them. It may, from time to time, make changes in regard to the information required and the form of the reports, but in such cases it shall give the proprietors seasonable notice thereof, so that they may adapt their accounts to the new requirements and be able to readily give the information desired.

SECT. 23. The board shall file with the secretary of state, on or before the first day of December in each year, their annual report to the legislature, which shall contain an account of their doings during the year, a statement of the expenses incurred by the board during the year, abstracts of the annual reports made by the proprietors of railroads to the board, statistical and other information showing the relations of the railroads to the business interests and prosperity of the state, and such suggestions and recommendations as they think will promote the public good.

CHAPTER 156.

FORMATION OF RAILROAD CORPORATIONS; UNION OF RAILROAD CORPORATIONS; LEASES AND EXTENSIONS.

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FORMATION OF A RAILROAD CORPORATION.

SECTION 1. Twenty-five or more persons, a majority of whom are residents of this state, may associate together by articles of agreement, for the purpose of forming a corporation to construct, maintain, and operate a railroad.

SECT. 2. The articles of agreement shall set forth the name of the corporation; the termini of the proposed railroad; its length, as nearly as may be; the name of each city, town, and county through or into which its route will extend; its gauge; the amount of the capital stock of the corporation; the appointment of seven at least of the subscribers to act as directors of the corporation until others are chosen, a majority of whom shall be residents of the state; and a provision that each subscriber will take the number of shares of the capital stock set opposite to his name and will pay the par value thereof, subject to the condition that he shall not be bound to pay more than ten per cent. of the amount of his subscription unless the corporation is established. The articles shall be signed by the associates, and each shall affix to his signature his residence, post-office address, and the number of shares of the capital stock which he agrees to take.

SECT. 3. The corporate name shall be one that is not in use by any other corporation in the state; and it shall not be changed except by the legislature.

SECT. 4. The capital stock of the corporation shall not be less than six thousand dollars for each mile of the proposed railroad if the gauge thereof is to be three feet or less, and not less than fifteen thousand dollars each mile if the gauge is to be more than three feet. It shall be divided into shares of one hundred dollars each.

SECT. 5. When the full amount of the capital stock has been subscribed in good faith by responsible parties, the directors shall cause the articles of agreement to be recorded in the office of the secretary of state, and a true copy thereof, attested by a majority of the directors, to be filed in the office of the clerk of each city and town through or into which the route of the proposed railroad will extend.

SECT. 6. The subscribers to the articles of agreement, and their assigns, shall thereupon become and be a corporation (herein termed the provisional corporation) having the following franchises, and no other: 1. Authority to organize and to elect officers and agents; 2. Authority to make necessary surveys for the proposed railroad and to enter upon any land for that purpose; 3. Authority to take all other preliminary steps required in the formation of a railroad corporation.

SECT. 7. If the provisional corporation shall not take the necessary

steps, and become a railroad corporation within two years after the time of the record of its articles of agreement in the office of the secretary of state, its existence as a corporation shall terminate.

SECT. 8. The provisional corporation may file in the office of the clerk of the supreme court in any county, through or into which the route of its proposed railroad will extend, a petition to the court for a decision of the question whether the public requires the proposed railroad.

SECT. 9. Any justice of the court, in term time or vacation, upon application by the petitioner and without notice to other parties, shall order such notice to be given of the petition as he deems reasonable, returnable at the next regular or adjourned law term of the court for which it is practicable to give the notice.

SECT. 10. At the term to which the order of notice is made returnable, if it appears to the court that sufficient notice of the petition has been given, and that all preliminary steps have been taken and the capital stock has been subscribed by responsible parties, in good faith, with the intention of building the road, and if no sufficient objection is made, the court shall refer the petition to the board of railroad commissioners, or to a board of three referees appointed by the court, as they shall deem best, to find and report the facts bearing upon the petition.

SECT. 11. The board to whom the petition is referred shall appoint a time and place of hearing, and shall give notice thereof by causing a copy of the petition and of their order thereon to be given to the attorney-general of the state, or to be left at his abode fourteen days before the day of hearing, and like copies to be posted in two or more public places in each city or town through or into which the route of the proposed railroad will extend, thirty days at least before the day of hearing, and by causing like copies to be published in one or more newspapers published in Concord, and in each of the counties which will contain any portion of the proposed railroad.

SECT. 12. The board shall hear all parties who are interested and desire to be heard, and shall make report of their doings and findings to the regular or adjourned law term of the court holden next after their last hearing.

SECT. 13. The court shall thereupon, after hearing such parties as desire to be heard, decide the questions raised by the petition, and cause a record of their decision to be made.

SECT. 14. If they decide that the public good requires the proposed railroad, the secretary of state, upon receipt of a copy of such decision, shall issue to the corporation a certificate substantially in the following form :

THE STATE OF NEW HAMPSHIRE.

Be it known that whereas ——— have associated themselves together with the intention of forming a corporation under the name of the ———, for the purpose of locating, constructing, maintaining, and operating a railroad (description of road as in articles of agreement), and have complied with the laws of the state relating thereto; therefore I, ———, secretary of state, do hereby certify that the said persons, their associates and successors, are legally established as a corporation under the name aforesaid, having all the powers and privileges, and being subject to all the duties, liabilities, and restrictions, of similar corporations under the laws of this state.

In witness whereof I have hereunto subscribed my name and affixed the seal of state this ——— day of ———, in the year ———.

[L. S.] ———, *Secretary of State*.

The secretary of state shall record such certificate in connection with the articles of agreement previously recorded in his office. The provisional corporation shall thereupon become a railroad corporation, having all the powers and privileges, and being subject to all the duties, liabilities, and restrictions, of similar corporations, except so far as the same are limited or enlarged by this chapter.

SECT. 15. The directors may call a meeting of the subscribers to the capital stock of the corporation, for the purpose of adopting by-laws and completing a permanent organization, and give such notice thereof as they deem reasonable.

SECT. 16. All the franchises and rights of a corporation so established, as to any portion of its railroad which is not completed ready for operation at the end of three years from the date of its certificate of establishment, shall be forfeited.

SECT. 17. The corporation may from time to time increase its capital stock, as may be necessary to raise money to construct and equip its railroad, and may change the gauge thereof, provided it also increases its capital stock to correspond with the new gauge established. It shall file with the secretary of state forthwith a certified copy of every vote passed for such purposes, and the increase of capital or change of gauge shall not be authorized until the copy is so filed.

BUILDING OF EXTENSIONS AND BRANCHES.

SECT. 18. If a railroad corporation desires to build an extension of its railroad, or a branch railroad, it may file in the office of the clerk of the supreme court of the county in which its principal office is located, a petition to the court for a determination of the question

whether the public good requires the building of such extension or branch. The petition shall set forth the termini, gauge, general description, and probable cost of such extension or branch. The court, at a regular or adjourned law term, after notice and finding of the facts, and a hearing of the parties, as provided in sections nine, ten, eleven, twelve, and thirteen of this chapter, shall determine the question so presented.

SECT. 19. If the court determine that the public good requires the building of the extension or branch, the corporation shall file a copy of the petition and of the decision of the court thereon in the office of the secretary of state, and shall thereupon have authority to locate and take necessary lands therefor, as in other cases, to build and operate the same, and to raise the money for the construction and equipment of such branch or extension, by increasing its capital stock, or by issuing its bonds or notes, within the limits prescribed by law.

SECT. 20. Authority obtained under the provisions of the two preceding sections must be exercised within two years after the decision of the court is made; and no part of an extension or branch shall be built under such authority after the expiration of that time.

LEASES.

SECT. 21. Any railroad corporation may lease its railroad, railroad property, and interests to any other railroad corporation for such length of time and upon such terms as may be agreed to by the lessor and lessee corporations, at meetings of their respective stockholders properly notified and held for the purpose, by a two-thirds vote of all the stock represented and voting at such meetings.

UNION OF TWO OR MORE RAILROAD CORPORATIONS.

SECT. 22. If two or more railroad corporations, at meetings of their respective stockholders properly notified and held for the purpose, have agreed, by a two-thirds vote of the stock represented and voting at such meetings, to unite and form a single corporation, they may apply by petition to the supreme court for a determination of the question, whether the public good will be promoted by such union; and if the court, at a regular or adjourned law term, after notice and finding of the facts, and a hearing, as provided in sections nine, ten, eleven, twelve, and thirteen of this chapter, shall determine that the public good requires such union, and that stockholders of the respective corporations, at meetings duly held for the purpose, have voted in favor of it as aforesaid, they shall authorize the union to be made.

SECT. 23. In such case, the corporations shall make and execute an agreement setting forth the terms of the union, and shall cause the same, together with the decision of the court authorizing the union, to be recorded in the office of the secretary of state; and from and after such record, the stockholders in the uniting corporations assenting thereto, together with their associates and successors, shall be members of the new corporation; and the new corporation shall have all such rights, powers, and privileges, and be subject to all such obligations and liabilities, as shall be necessary and proper to consummate the agreement of union and to vest in itself the corporate franchises and property of the uniting corporations, and it shall thereafter hold and possess all such franchises and property, subject to the duties and liabilities of the corporations forming the union, or any of them.

SECT. 24. The first meeting of the new corporation shall be called by the presidents of the corporations which united to form it, or by either of them, by publishing a notice of the time and place of meeting and of the subjects to be there acted upon, in one or more newspapers published in each county through or into which the railroads of the uniting corporations extend.

SECT. 25. Until stock of the new corporation has been issued to assenting stockholders, they shall have the right to vote in meetings of members of the new corporation, as if stock had been issued to them according to the agreement of union, and they were the holders thereof.

SECT. 26. The capital stock of the new corporation shall not exceed the sum of the capital stocks of the uniting corporations actually issued and paid for at par at the time of the union.

SECT. 27. The new corporation shall not divide to its stockholders in dividends a greater sum than the aggregate sum which the uniting corporations together were authorized to divide to their stockholders.

DISSENTING STOCKHOLDERS.

SECT. 28. If any stockholder in a railroad corporation which has voted to build an extension or branch, or which has become a party to a lease or to a contract of union under the provisions of this chapter, shall dissent from the building of such extension or branch, or from some such lease or union, the corporation in which he is a stockholder, in the case of building an extension or branch, or of a lease, or the new corporation in case of union, may apply by petition to any justice of the supreme court, in term time or vacation, setting forth the action of the corporation in respect to the matter dissented from, the names and residences of all the stockholders of the petitioning corporation, so far as known,—designating those who have assented

to the action taken, those who have dissented therefrom, and those who have not expressed their assent or dissent,—and praying that the court may determine the value of the stock, interest, or property-right taken of dissenting stockholders or of any stockholder who may be entitled to have the value of his stock, interest, or property-right taken, determined, and for such other relief as the petitioner may desire.

SECT. 29. Such justice shall fix a time and place for a hearing upon the petition, in term time or vacation, and shall order the petitioner to give notice thereof by publishing the petition, or the substance of it (not including the names of stockholders). in such newspapers as the justice may order, and by mailing postpaid to each non-assenting stockholder whose name and residence is known a copy of the petition and order (not including the names of stockholders), at least fourteen days before the day of hearing.

SECT. 30. At the time and place so appointed, such justice, or some other justice of the court, shall attend, and if it appears that the order of notice has been complied with, shall proceed with the hearing. Any non-assenting stockholders may appear and be heard upon the questions before the court affecting their rights. If any such stockholder is a minor, or an insane person, and has no guardian, the justice shall appoint a guardian *ad litem* for such person, and the petitioner shall pay such guardian for his services and disbursements in the proceedings.

SECT. 31. After hearing the parties, the justice shall determine the value of the stock, interest, or property-right taken of all stockholders who are entitled to have compensation for their stock, interest, or property-right taken, and shall make and enforce all orders that may be necessary to secure to dissenting and other stockholders all their rights under the constitution and laws. He shall file his award with the clerk of the supreme court in the county of Merrimack.

SECT. 32. The petitioner shall forthwith pay or tender the sums so awarded to the stockholders entitled thereto. If for any reason it is impracticable to make or tender such payment, or if a stockholder refuses to receive the sum awarded to him when tendered, the petitioner shall deposit the money with the state treasurer, to be held by him in trust for the use of, and to be paid upon demand to, the parties respectively to whom the same has been awarded.

SECT. 33. Whenever the petitioner has made such payment, or tender and deposit, the stock, interest, or property-right of the stockholder shall become the property of the petitioner, and any justice of the court, in term time or vacation, may make and enforce such orders as may be necessary to secure the same to the petitioner.

SECT. 34. Whenever the petitioner has made payment or tender and deposit of all sums thus awarded, the lessee corporation, or the new corporation as the case may be, shall become possessed and seized of the property, franchises, and rights named in the contract of lease or union, in accordance with the terms thereof, and any justice of the court, in term time or vacation, may make and enforce any orders that may be necessary to perfect the title.

SECT. 35. Any stockholder who is aggrieved by the award of the justice, may appeal therefrom by filing in the office of the clerk of the supreme court for the county of Merrimack notice of his appeal, within thirty days after the award is filed. The justice who made the award, upon application of the appellant, shall direct the appeal to be entered at a trial term of the court to be held in the county in which the appellant resides or in which the principal office of the appellee is located, as he shall think best.

SECT. 36. The appellant shall give notice to the appellee of his appeal, and of the court at which it will be entered, fourteen days at least before the beginning of such term; and the court shall thereupon assess the value of his stock, interest, or property-right taken, by a jury.

SECT. 37. If upon such trial the amount of the award is increased, the stockholder shall have judgment and execution against the appellee therefor, with interest and costs; if it is decreased, the appellee shall have judgment and execution for such decrease.

GENERAL PROVISIONS.

SECT. 38. No corporation shall locate a railroad upon or over any portion of a route for which a charter of any other corporation was, upon the fourteenth day of September, 1883, and still is, existing, and under which a location has not been made, until it has been made or until the time limited in the charter for the location has expired; and no corporation shall locate a railroad upon or over any portion of a location made by any other corporation, except so far as may be necessary for connections and crossings.

SECT. 39. The principal place of business of every corporation formed under the provisions of this chapter, and the offices of the superintendent and other officers who have the general management of the business of the corporation, shall be within the state.

SECT. 40. A corporation may hire money to settle with its dissenting stockholders, provided its indebtedness is not thereby increased beyond the limit authorized by law.

SECT. 41. Whenever a corporation becomes the owner of any of its stock under the provisions of this chapter, it shall sell or retire the

same within two years after it becomes such owner. Unless it can sell the same at private sale for as much as it cost the corporation, it shall make the sale by auction, and may make it in the Boston market.

SECT. 42. The rates for fares and freights upon and over a railroad leased under the provisions of this chapter, or upon and over a railroad passing into the possession of a new corporation formed by a union of two or more corporations, shall not be increased above the rates that were in existence on the twenty-fourth day of July, 1889; and a reasonable and just reduction of rates shall be made from time to time to meet the decrease in operating expenses occasioned by a lease or union.

SECT. 43. Nothing in this chapter contained shall be construed to impair the right which any railroad corporation has to unite with another corporation, or to become a party to a contract for the lease of a railroad.

SECT. 44. Foreign railroad corporations operating roads within this state shall have the same rights for the purposes of operating, leasing, or uniting with other roads as if created by the laws of this state.

SECT. 45. The rights of the state as to any corporation, its franchises or property, shall not be impaired by any contract of lease or union made by it.

CHAPTER 157.

RAILROAD CORPORATIONS AND THE PROPRIETORS OF RAILROADS.

SECTION

1. Railroads are public.
2. Railroads built, etc., only by grant of legislature.
3. Railroad corporations, etc., public.
4. Proprietors of a railroad, who are.
5. Laws affecting proprietors bind the corporations.
6. Powers of railroad corporations.
7. Power to hold real estate.
8. Map, profile, etc., of new railroads to be filed in office of secretary of state.
9. Duties of proprietors of a railroad.
10. Interchange of business between connecting railroads.
11. Every corporation to control the motive power upon its road.
12. If corporations disagree, supreme court to determine terms of such interchange.
13. Penalty for non-compliance with the court's decision.
14. Corporations may contract for operation of railroads.
15. No title by adverse possession acquired by or against a railroad corporation.

SECTION

16. To keep full records, accounts, etc.
17. Annual reports to be made to the board of railroad commissioners.
18. Errors therein to be corrected, how and when.
19. Excess of net receipts above ten per cent. to be paid to state treasury, when.
20. Tolls may be altered by legislature, when.
21. Assistant treasurer of railroad corporation, when to be appointed.
22. Treasurer to furnish assistant treasurer copy of what records.
23. Dividends, where payable.
24. Railroads in other states, when not required to have assistant treasurers in this state.
25. Treasurer or assistant treasurer to transmit information to state treasurer, what and when; penalty for neglect.
26. Bonds sold at a discount not affected by usury.

SECTION 1. Railroads, being designed for the public accommodation like other highways, are public and subject to the control of the legislature at all times.

SECT. 2. They can be laid out, built, maintained, and put in operation only by virtue of express grants of the legislature, or of authority derived from the legislature.

SECT. 3. All corporations established by law for the construction and maintenance of railroads are public, and trustees and others in whom a railroad is vested are public agents, so far as the security and protection of public rights and interests are concerned.

SECT. 4. The term "proprietors of a railroad" includes the corporation to which the railroad was originally granted, the corporation into whose possession it may have passed, the assignees or trustees to whom it may have been mortgaged, and any company or persons to whom it may have been conveyed.

SECT. 5. Railroad corporations are bound by all laws affecting the proprietors of railroads.

SECT. 6. Railroad corporations have the general powers granted to other corporations, and the special powers granted to them by their charters and the general laws of the state.

SECT. 7. Any railroad corporation may purchase, hold, and convey real estate lying near to or adjoining its railroad, not exceeding in value five per cent. of its capital stock.

SECT. 8. Whenever a railroad, or a branch or extension of a railroad, has been finished and opened for public use, the corporation by which it was constructed shall, within one year thereafter, file in the office of the secretary of state a map and profile thereof, with tables of grade and curvature, and a statement of the other characteristics of the road, certified by its president and its engineer, in such form as the board of railroad commissioners may prescribe.

SECT. 9. The proprietors of a railroad shall keep their railroad in good repair, shall not discontinue it nor any part of it, shall discharge their duties in carrying passengers and freight agreeably to the proper object and purpose of such railroad, and shall in all things conform to the requirements of the laws.

SECT. 10. Every railroad corporation shall, at reasonable times and for reasonable compensation, draw over its railroad the cars, passengers, and freight delivered to it by any other corporation whose railroad connects with its railroad, and which is authorized to enter on and use the same, or which is authorized to use the railroad of any corporation having such authority, and the cars, passengers, and freight destined for such connecting railroad, and it shall provide convenient and suitable depot accommodations for such passengers and freight.

SECT. 11. No railroad corporation shall be required to allow the use of any motive power other than its own, upon its railroad.

SECT. 12. If the corporation cannot agree upon the terms and conditions for making such interchange of business, or if two corporations operating roads of different gauges cannot agree in regard to the accommodations to be furnished at their junction point or the interchange of their business, the supreme court, upon petition of either party, after notice to the other, shall hear the parties, and shall determine all questions arising between them in regard to such interchange and accommodations, having reference to the convenience and interest of the corporations and of the public. The decision of the court shall be binding upon the parties for one year, and until the court, upon like petition, notice, and hearing, shall revise or alter the same.

SECT. 13. If either party shall not comply with the decision of the court, it shall forfeit one thousand dollars for each month's neglect, for the use of the other party.

SECT. 14. Two or more railroad corporations may contract that either corporation shall perform all the transportation of persons and freight upon and over the railroads owned and controlled by the others.

SECT. 15. No title to any real estate or to any interest therein shall be acquired by or against the proprietors of a railroad by adverse possession, however exclusive or long continued.

SECT. 16. The proprietors of every railroad shall keep a full record of all their doings, and exact accounts of all their receipts and expenditures, and when required shall submit their records, accounts, papers, and files to the inspection of the legislature and its committees, and of the railroad commissioners.

SECT. 17. They shall, on or before the fifteenth day of September in each year, transmit to the board of railroad commissioners, upon blanks furnished by the board, a report for the year ending on the thirtieth day of the preceeding June, containing such information as the board shall require, and sworn to by the president and treasurer of the corporation. The accounts of the corporation shall be closed on the thirtieth day of June of each year, preparatory to making such report.

SECT. 18. If such report is defective or erroneous, the board shall give the proprietors notice thereof, and they shall, within fifteen days thereafter, transmit to the board a corrected report.

SECT. 19. In every year when the net receipts of a railroad corporation exceed the average of ten per cent. on its expenditures from the beginning of its operations, the excess shall be paid into the treasury of the state, until otherwise directed by the legislature.

SECT. 20. Whenever the net income of a railroad corporation for any year exceeds ten per cent. upon its capital stock, the legislature may alter and revise the rates of toll for freight and passengers as they may deem just.

SECT. 21. If the treasurer of any railroad corporation in the state does not reside and keep his office in the state, the corporation shall appoint an assistant treasurer, who shall reside in the state and shall keep his office at the principal place of business of the corporation therein.

SECT. 22. In such case, the treasurer shall furnish to the assistant treasurer a true copy of his records made in compliance with the provisions of section twelve of chapter one hundred and forty-eight of the Public Statutes, and of all entries made therein, forthwith after

they are made; and the assistant treasurer shall enter such copies in books provided for the purpose, and shall keep the same in his office.

SECT. 23. All dividends due to stockholders of a railroad corporation whose road is wholly or partially within the state, shall be payable at the office of the treasurer or assistant treasurer in the state, unless otherwise requested by the stockholders.

SECT. 24. The provisions of the three preceding sections shall not apply to a railroad corporation existing in another state, a part of whose road is in this state, unless such part is represented by capital stock made and issued under the authority of this state.

SECT. 25. The treasurer of every railroad corporation, any part of whose road is in this state, shall transmit to the state treasurer, on or before the first day of June in each year, a list of the stockholders of the corporation residing in each town of the state, on the first day of April preceding, giving the number of shares owned by each, with a certificate, under oath, that the list is correct. Every treasurer who neglects to comply with the provisions of this section shall forfeit one hundred dollars.

SECT. 26. No railroad corporation shall be exonerated from the payment of any bond or obligation issued by the directors in pursuance of authority given at any legal meeting, by reason of any discount made to the purchaser thereof in accordance with the unanimous vote of the corporation.

CHAPTER 158.

LAYING OUT RAILROADS.

SECTION

1. Routes to be surveyed, and roads laid out, by proprietors.
2. Grantees may make necessary surveys.
3. Located by permanent monuments.
4. Land taken, how described.
5. Road may be located in whole or in parts.
6. Change of location upon petition of stockholders, when and what.
7. Change of location upon petition of aggrieved landowner, when and what.
8. Grantees may obtain deeds.
9. May apply for appraisal of damages.
10. No appraisal of land damages to be made while petition for change of location is pending.
11. Hearing to be appointed; notice to be given, what.
12. Notice of beginning of hearing, etc., sufficient.
13. Selectmen to be notified, and join in appraisal.
14. Appraisal, how made and reported.
15. Return of damages to town clerk.
16. Damages, how assessed if railroad commissioners and selectmen are unable to agree.

SECTION

17. Appeal, by whom, when, and how claimed, etc.
18. Damages to be paid before entry.
19. Damages, how paid if owner unknown.
20. Proprietors to recover the amount of the reduction of damages upon appeal.
21. Costs upon appeal, what.
22. No action before entry, nor after location changed.
23. Location of existing road may be changed, how.
24. Rights of parties; new location discontinuance of old.
25. Land may be appraised and set off, after road built.
26. Proprietors of railroad may take land for depots, yards, side-tracks, etc.
27. Remedies and procedure in such cases.
28. Right to remove obstructions at crossing may be taken, when and how.
29. Remedies and procedure in such cases.
30. Branch railroads by permission of selectmen.

SECTION 1. The funds for the construction of railroads being derived mainly from the proprietors, and the profits derived from the tolls and income thereof being payable to them, their routes shall be surveyed and the roads laid out, in the first instance, by their agents.

SECT. 2. The grantees to whom the legislature has granted the right to construct and maintain a railroad, by virtue of a special charter or of the general laws, may enter upon any land which falls within their route, and by their agents and engineers may make such surveys as they deem necessary.

SECT. 3. They shall locate the route for their railroad where they deem it most suitable, establishing at convenient distances, not exceeding one mile apart, permanent monuments easily ascertainable, and shall make a return of their location with reference to such monuments to the office of the secretary of state.

SECT. 4. Such return shall describe the location of the road by courses and distances, with reference to such monuments, the width of the land located, the quantity of land of each owner proposed to be taken, and the name of the owner, if known. The width of the land located shall not exceed six rods, with necessary additions for excavations and embankments, unless the corporation has special legislative authority to make it wider.

SECT. 5. They may locate and lay out the road in its entire course at one time, or in parts at different and successive times, as they shall deem conducive to the interests of all concerned.

SECT. 6. If stockholders of the corporation, holding one tenth of its capital stock, are dissatisfied with the location, they may apply by petition to the railroad commissioners for a change of the same; and the commissioners shall give notice to the corporation and all others interested, by publication, and, after due hearing and examination, shall make such changes in the location as the public good may require.

SECT. 7. If any owner of land over which the road is located is aggrieved by the location, he may, at any time before his damages are assessed, apply by petition to the railroad commissioners for a change of the location; and they shall give notice upon such petition and hear the parties, as provided in the preceding section, and shall make like changes in the location.

SECT. 8. The corporation, either before or after such location, may obtain deeds, or bonds for deeds, of any lands which it deems necessary for its road, or of the right of way over the same.

SECT. 9. If from any cause it does not obtain such deeds, it may apply by petition to the railroad commissioners to appraise the damages occasioned to the owners of such lands by the railroad.

SECT. 10. No appraisal of damages to landowners shall be made after a petition for a change of location has been presented to the railroad commissioners, until such question has been decided.

SECT. 11. The railroad commissioners shall appoint a time and place of hearing upon such petition, and the chairman of the board shall cause notice thereof, in writing, to be given to the several owners and parties interested in the land over which the railroad is located who have not given deeds as aforesaid, as selectmen are required to give notice to owners of land in highway cases.

SECT. 12. Notice of the time and place of the beginning of such hearing, and of the distance to be examined, shall be sufficient in all cases.

SECT. 13. The railroad commissioners shall give notice of the hearing to the selectmen of the town in which the land lies; and the rail-

road commissioners and such selectmen, being met, shall constitute a joint board for such appraisal.

SECT. 14. They shall examine the place, hear the parties, and make report of their proceedings, in the same manner as county commissioners are required to do in the case of highways, except that the report shall be filed in the office of the secretary of state.

SECT. 15. The railroad commissioners shall certify the damages awarded to landowners in each town to the town clerk of such town, within ten days after making the award; and the clerk shall note upon such certificate the date of its receipt, and keep it on file.

SECT. 16. If the railroad commissioners and selectmen are unable to agree upon an appraisal in case of any landowner, any justice of the supreme court, in term time or vacation, upon application by the proprietors of the railroad or by the landowner, shall appoint three disinterested men, resident in the county, to make such appraisal, who shall proceed as to the same in all respects as the joint board of commissioners and selectmen is authorized to do in other cases.

SECT. 17. If either party is aggrieved by the award of the joint board or of the referees mentioned in the preceding section, such party, within sixty days after the report was filed in the office of the secretary of state, and not after, may file, in the office of the clerk of the supreme court of the county in which the land is situated, a petition to have the landowner's damages assessed by a jury, upon which petition the clerk shall issue an order of notice returnable to the court; and after the order has been complied with, the court shall assess such damages by a jury unless the parties agree upon a different method.

SECT. 18. The damages awarded to a landowner shall be paid or tendered to him, if he is known and resident in the state, before the proprietors of the railroad shall enter on his land to construct their road, except by his consent. If an appeal is taken, the proprietors shall also file, in the office of the clerk of court in the county in which the land is situated, reasonable security to the satisfaction of one of the justices of the supreme court for the payment of any further damages and of the costs which may be awarded to the landowner upon the appeal.

SECT. 19. If the landowner or his residence is unknown, or if he is a minor and has no guardian, or is not resident in the state, the damages awarded shall be paid to the state treasurer for his use, before the land can be rightfully entered upon.

SECT. 20. If the landowner's damages are reduced upon appeal, the proprietors of the railroad shall have judgment and execution against the landowner for the amount of such reduction, if he has taken the damages tendered to him; but if he has not taken such damages, the

proprietors may retain the amount of such reduction from the tender, or, if the damages have been paid to the state treasurer, the proprietors shall be entitled to have such reduction returned to them by the treasurer.

SECT. 21. If the result of an appeal is to change the award of damages in favor of the appellant, the appellant shall recover costs; otherwise shall pay costs.

SECT. 22. No action shall be brought for damages before entry upon the land; and if the location of the road shall be changed before the land is entered upon for the purpose of building the road, no damages shall be paid.

SECT. 23. The location of a railroad already built may be changed by the railroad commissioners upon petition of the proprietors thereof, after notice to all persons interested, a hearing, and an award of damages to persons injured by the change.

SECT. 24. The rights of all parties shall be the same in such case as in case of an original appraisal. The change of location shall be a discontinuance of the part abandoned, but the proprietors may be allowed by the commissioners a limited time to remove their fixtures therefrom.

SECT. 25. If land occupied by a railroad was not laid out and the damages appraised at the time of its construction, the road shall not be obstructed, but the land may be set off and the damages appraised as should have been done originally; and the costs of the proceeding shall be assessed by the railroad commissioners and paid by the proprietors of the railroad.

SECT. 26. The proprietors of a railroad may take and hold such land as may be necessary for yards, side tracks, woodsheds, repair shops, turn-tables, gravel pits, engine, car, and freight houses, and depots, and for making provisions to supply their buildings and engines with water, by filing a location thereof, as provided for filing the location of a railroad, and by giving a copy of such location to the owner of the land, if known and resident in the state, fourteen days at least before application shall be made for an appraisal of the damages, and if such owner is unknown, or does not reside in the state, by publishing such copy in some newspaper published in the county in which the land is situated.

SECT. 27. In such cases, the parties shall have like remedies for a change of location and for the appraisal of land damages as in the case of taking land for a railroad, with the same right of appeal and the same procedure thereon.

SECT. 28. Whenever it is necessary for the public safety, the proprietors of a railroad may take the right to remove trees, bushes, and

other obstructions located so near to a crossing of their railroad by a highway or private way, situated outside the thickly settled portions of a town or city as to obstruct the view of the crossing, or so near to a curve in their road so situated as to obstruct the view of the road, and the right to keep the land free from such obstructions, by filing a location of the land in which the right is taken, including a particular description of the right taken, and by giving notice thereof to the landowner, as provided for the cases mentioned in section twenty-six.

SECT. 29. In such cases, the parties shall have like remedies for a change of location, including a modification of the right taken, and for an appraisal of damages, as in the case of taking land for a railroad, with the same right of appeal and the same procedure thereon, with the following addition: If the landowner is dissatisfied with the location and the right taken, and applies to the railroad commissioners for a change thereof, he shall have the right to have the question of public necessity determined by them; and he may appeal from their decision in respect to the location as from a decision in respect to damages, and the proprietors of the railroad shall take no steps to exercise the right while such appeal is pending.

SECT. 30. Branch railroads, for the purpose of obtaining gravel, timber, or other material for the railroad, or for the accommodation of individuals, may be constructed and maintained across any highway by the permission of the selectmen, if the same do not obstruct the public travel.

CHAPTER 159.

CROSSINGS, STATIONS, FENCES, BRIDGE GUARDS, AND DAMAGE FROM FIRE.

GENERAL STATEMENT OF DUTY.

SECTION

1. Duty of proprietors to provide stations, crossings, etc.

GRADE CROSSINGS.

2. Grade crossings prohibited, when.
3. Action to be taken if proprietors fail to comply.
4. Warning signs, at what crossings to be maintained.
5. Form of signs.
6. Whistling and bell ringing at grade crossings.
7. Railroad commissioners may fix maximum speed over grade crossings.
8. Occupancy of grade crossings by proprietors of railroad, limited.
9. Penalty for violation of provisions of two preceding sections.
10. Duty of engineer when approaching a grade crossing over another railroad.
11. Penalties for violation of provisions of preceding section.
12. Street railway cars prohibited from crossing steam railroad tracks without stopping.

CHANGES IN HIGHWAYS TO AVOID
GRADE CROSSINGS, ETC.

13. Proprietors of railroad may change grade of a highway at a crossing, or erect gates, when.
14. May change location of highway to avoid or improve a crossing, when.
15. Towns may require crossing to be upon different grades, etc.

SECTION

16. Penalty for neglect.
17. Proprietors may appeal to commissioners, etc.
18. May take land for making changes in highway, how.

CATTLE GUARDS, ETC., FOR ACCOM-
MODATION OF INDIVIDUALS.

19. Railroad commissioners to hear and decide on passes, etc.
20. Penalty for not making passes, etc.

STOPPING PLACES AND DEPOTS.

21. To be established, when,
22. Penalty for neglect.

FENCES AND CATTLE GUARDS.

23. Proprietors to maintain fences and cattle guards.
24. Upon neglect, they may be built by owner of adjoining land.
25. When proprietors may erect fences at the expense of others.

BRIDGE GUARDS.

26. To be erected and maintained.
27. Penalty for neglect.
28. Punishment for injury to bridge guards.

FIRES ORIGINATING FROM LOCO-
MOTIVES.

29. Proprietors liable for, when.
30. They have an insurable interest in exposed property.
31. Owner's insurance inures to the benefit of proprietors, how and when.

GENERAL STATEMENT OF DUTY.

SECTION 1. It shall be the duty of the proprietors of every railroad to provide suitable crossings, stations, and other facilities for the accommodation of the public, and suitable gates, crossings, cattle passes, and other facilities for the accommodation of persons whose lands are divided, or are separated from a highway, by a railroad.

GRADE CROSSINGS.

SECT. 2. No railroad hereafter constructed shall cross another railroad, a highway, or other way, at grade, without the consent in writing of the board of railroad commissioners is first obtained.

SECT. 3. If the proprietors of a railroad neglect to comply with the requirements of the preceding section, the board of railroad commissioners may subsequently approve the crossing made by the proprietors, or may order them to make such changes therein as the public good requires. If the proprietors fail to comply with such order, they may be fined not exceeding one thousand dollars.

SECT. 4. The proprietors of every railroad shall maintain warning signs at every grade crossing over a highway, except those at which gates are maintained or a flagman is employed.

SECT. 5. Such signs shall be constructed upon a uniform pattern, to be determined by the board of railroad commissioners; but signs already in use that are legible may be continued in use until there is occasion for their renewal.

SECT. 6. Whenever a locomotive approaches within eighty rods of a grade crossing over a highway, two long and two short whistles immediately following each other shall be given, and the bell shall be rung until the locomotive has passed the crossing, except that there shall be no whistling at those crossings in cities and villages where the board of railroad commissioners, upon petition, have decided that whistling is not necessary.

SECT. 7. The board of railroad commissioners, upon petition, notice, and hearing, may regulate the speed at which the proprietors of a railroad may run their engines and cars over the grade crossing of any highway in or near the compact part of a town; and such proprietors shall not run their engines and cars at a greater speed.

SECT. 8. The proprietors of a railroad shall not occupy a grade crossing over a highway by their engines and cars more than five minutes at one time, without authority from the board of railroad commissioners. Such board, upon petition, notice, and hearing, may fix the maximum time for such occupancy, not exceeding nine minutes, and may establish such regulations in relation thereto as the public accommodation requires. Any person aggrieved by a decision of the board may appeal therefrom to the supreme court within sixty days after the decision is made.

SECT. 9. If the proprietors of any railroad violate the provisions of either of the two preceding sections, or of any order of the board of railroad commissioners made thereunder, they shall be fined not exceeding fifty dollars for each offence.

SECT. 10. The engineer of every locomotive drawing a passenger train, when approaching a grade crossing over another railroad at which no signalman is stationed, shall stop his train at least five hundred feet from the crossing, and shall then proceed slowly over the crossing; but one stop shall be sufficient for all such crossings located within six hundred feet of each other upon the same road.

SECT. 11. Every engineer who violates the provisions of the preceding section shall forfeit one hundred dollars for each offence, and the proprietors of the railroad on whose road the offence is committed shall forfeit two hundred dollars.

SECT. 12. If a street railway company shall permit its cars to cross the track of a steam railroad without coming to a full stop immediately before crossing, it shall be fined one hundred dollars for each offence.

CHANGES IN HIGHWAYS TO AVOID GRADE CROSSINGS, ETC.

SECT. 13. The board of railroad commissioners, upon petition of the proprietors of a railroad, after notice and hearing, may authorize such proprietors to raise or lower a highway or other way where it is crossed by a railroad, for the purpose of having it pass above or below the railroad, or for the purpose of further separating the grades of the two roads; and the proprietors may thereupon make the changes so authorized.

SECT. 14. The board, upon like proceedings, may authorize the proprietors of a railroad to change the location of a highway or other way for the purpose of avoiding or improving a crossing of the highway by the railroad, or of enabling them to properly construct their railroad: and the proprietors, whenever so authorized, may make such changes.

SECT. 15. A town may, by vote, require the proprietors of a railroad to raise or lower a highway where it is crossed by their railroad, so that it will be sufficiently above or below the railroad to safely accommodate the travel upon both, or to erect and maintain gates across the highway, by the sides of the railroad, or to station a flagman there.

SECT. 16. If the proprietors shall not comply with such vote to the satisfaction of the selectmen of the town, within six months after receiving a copy of it, they shall forfeit one hundred dollars for each month's neglect, unless they shall make application to the board of railroad commissioners as provided in the following section.

SECT. 17. They may, within sixty days after receiving a copy of the vote, apply by petition to the board of railroad commissioners for an examination of the crossing and a decision of the question whether

the public good requires the change proposed, or any other change, to be made; and the commissioners, after notice and hearing, and after examining the crossing, shall make such order in respect thereto as they adjudge the public good requires; and if the proprietors do not comply with such order, they may be fined not exceeding one thousand dollars.

SECT. 18. The proprietors may take and hold such land or rights in land as may be necessary to enable them to make changes in highways, as authorized or required by this chapter, by filing a location thereof, as provided for filing the location of a railroad; and the parties shall have like remedies for a change of location and for the appraisal of damages as in such case.

CATTLE GUARDS, ETC., FOR ACCOMMODATION OF INDIVIDUALS.

SECT. 19. If the owner of land and the proprietors of a railroad are not agreed upon the place, number, or kind of cattle guards, passes, or crossings to be constructed for his accommodation, either party may apply to the board of railroad commissioners, who, after notice, hearing, and examination, shall determine the number, places, time, and manner of construction of the same.

SECT. 20. If the proprietors do not construct such cattle guards, passes, and crossings within the times limited by the commissioners, and do not pay the costs adjudged to be paid by them, upon request, they shall forfeit twenty-five dollars for each month's neglect.

STOPPING PLACES AND DEPOTS.

SECT. 21. The board of railroad commissioners, upon petition of the selectmen or of twenty or more legal voters of a town, after notice and hearing, may order the proprietors of a railroad to establish such stopping places or depots in the town as they find that the public good requires, within a time by them limited, and to stop trains at such stopping places or depots.

SECT. 22. The proprietors of a railroad shall forfeit one hundred dollars for each month's neglect to comply with such order, for the use of the town.

FENCES AND CATTLE GUARDS.

SECT. 23. The proprietors of every railroad shall erect and maintain a sufficient fence upon each side of their road, except at the crossings of public highways; and at every such crossing they shall construct and maintain, upon each side of the highway, sufficient cattle guards or fences to prevent cattle from passing upon their road.

SECT. 24. If the proprietors of any railroad neglect to erect or

maintain fences, as provided in the preceding section, the owner of adjoining land may give notice thereof to any agent of the proprietors, and if the fence is not erected or made sufficient within twenty days, such owner may build or repair it and recover of the proprietors twice the expense of so doing, in an action on the case.

SECT. 25. If any person has agreed to repair or maintain such fence and neglects to do so, the proprietors of the railroad may rebuild the same and recover the expense of so doing of such person in an action on the case.

BRIDGE GUARDS.

SECT. 26. The proprietors of every railroad shall erect and maintain bridge guards at each end of every bridge or other structure erected less than eighteen feet above the track of their railroad, the character and location of which shall be approved by the board of railroad commissioners.

SECT. 27. If the proprietors of any railroad shall fail to comply with the provisions of the preceding section, they shall forfeit fifty dollars for each month of continuance in such failure.

SECT. 28. If any person shall wilfully destroy or injure any such bridge guard he shall be fined not exceeding one hundred dollars, or be imprisoned not exceeding thirty days.

FIRES ORIGINATING FROM LOCOMOTIVES.

SECT. 29. The proprietors of every railroad shall be liable for all damages to any person or property by fire or steam from any locomotive or other engine upon their road.

SECT. 30. Such proprietors shall have an insurable interest in all property situate upon the line of their road which is exposed to such damage, and they may effect insurance thereon for their own benefit.

SECT. 31. Such proprietors shall be entitled to the benefit of any insurance effected upon such property by the owner thereof, less the cost of premium and of expense of recovery. The insurance shall be deducted from the damages, if recovered before the damages are assessed, or if not, the policy shall be assigned to the proprietors, who may maintain an action thereon.

CHAPTER 160.

PASSENGERS, FREIGHT, AND RAILROAD POLICE.

GENERAL PROVISIONS.

SECTION

1. Proprietors of railroads to furnish reasonable and equal facilities, etc., to all persons upon same terms.
2. Penalty for violation.
3. Table of rates for transportation to be posted; rates to be uniform; not to be raised until after notice.

PASSENGERS.

4. Season, mileage, and excursion tickets.
5. Free transportation, to whom limited.
6. Conductors to collect fares or tickets, and remove passengers not paying.
7. Penalty for evading payment of fare.
8. Noisy or disorderly passengers, punishment of; how detained.
9. Penalty upon conductor, etc., for not collecting fare.

SLEEPING AND PARLOR CARS.

10. Proprietors of sleeping and parlor cars common carriers.
11. Occupant of lower berth may require upper berth to remain open, when.
12. Penalty for violation of provisions of preceding section.

HEATING PASSENGER CARS.

13. Method of heating passenger, mail, and baggage cars.
14. Penalty for violation of provisions of preceding section.

BAGGAGE.

15. Passengers' baggage to be carried.
16. Proprietors responsible for safety of baggage; remedy for default.

SECTION

17. Penalty for reckless or wilful injury or destruction of baggage.
18. Railroads to post copy of preceding sections in depots.

FREIGHT CHARGES.

19. Freight charges regulated.
20. Penalty.

TRANSPORTATION OF MILK.

21. Tariff for transportation of milk, when to be established.
22. Board of railroad commissioners may establish tariff on milk, when.
23. Penalty for refusal or neglect to transport milk according to tariff so fixed.

TRANSPORTATION OF SOLDIERS, ETC.

24. For the state.
25. For the United States.

SALES OF UNCLAIMED FREIGHT.

26. Unclaimed meats, fruits, grains, etc., may be sold by common carrier, how.
27. Other property may be sold, how.
28. Return of sale; application of proceeds.

RAILROAD POLICE OFFICERS, ETC.

29. Employés may be appointed police officers; tenure of office.
30. Copy of record of appointment to be filed, where.
31. Officers to wear a badge, except when on duty as detectives.
32. Their powers and duties.
33. Compensation; liability for official misconduct.
34. Their powers to cease, when.
35. Loiterers about station houses, etc., may be fined, when.
36. Limitation of prosecutions.

GENERAL PROVISIONS.

SECTION 1. The proprietors of every railroad shall furnish to all persons reasonable and equal terms, facilities, and accommodations,

and for the use of depots, buildings, and grounds in connection with such transportation, and for the interchange of such traffic at points of connection with other railroads.

SECT. 2. If the proprietors of any railroad shall not comply with the provisions of the preceding section, they shall be fined not exceeding one thousand dollars for each offence, and shall be liable to the party injured for his damages in an action on the case.

SECT. 3. The proprietors of every railroad shall cause to be posted in their depots a table of prices for the conveyance of persons and property between the stations on their road and between such stations and the stations of other railroads with which they have a business connection. The rates shall be the same for all persons and for like descriptions of freight between the same points; and shall not be raised until after thirty days' notice, posted as aforesaid.

PASSENGERS.

SECT. 4. Season and mileage tickets may be sold at reduced rates; and special rates may be established for passengers to attend agricultural fairs and public meetings, for parties of pleasure, and for military and other organized bodies.

SECT. 5. No person shall ride upon a car or train who has not paid, or does not pay on demand, the established fare, except the following: Stockholders going to and returning from stockholders' meetings; the directors, superintendent, treasurer, and clerk of the proprietors; the directors, superintendent, treasurer, and clerk of the proprietors of other railroads with which their road has a connection; persons in charge of mails and expresses; and poor persons and persons in misfortune who are unable to pay the fare and to whom passes have been granted.

SECT. 6. The conductors shall promptly collect of passengers not entitled to ride free the established fares or the tickets showing that they have been paid. If any such passenger shall not pay his fare, or give up to the conductor a ticket showing payment thereof, the conductor may remove him from the train at some passenger station on the road, and may require others to aid him. If any person refuses or neglects to give such aid when required, he shall be fined not exceeding twenty dollars.

SECT. 7. If a person fraudulently evades or attempts to evade the payment of the established fare, by giving a false answer to the collector thereof, or by travelling beyond the point to which he has paid, or by leaving the train without having paid the fare, or by any other means, he shall be fined not exceeding ten dollars for each offence.

SECT. 8. If a passenger or other person behaves in a noisy or dis-

orderly manner upon a railroad train, he shall be fined not exceeding twenty dollars, or be imprisoned not exceeding six months for each offence. The conductor, baggage-master, or brakemen of the train may remove such person to the baggage car and there detain him until he arrives at his destination or until he is placed in the custody of an officer for lawful detention.

SECT. 9. If a conductor, ticket-master, or other officer of a railroad shall knowingly violate any provision of this chapter relative to fares, he shall be fined not exceeding fifty dollars, and shall be incapable of holding any office or any employment on the railroad.

SLEEPING AND PARLOR CARS.

SECT. 10. All persons, companies, and corporations operating sleeping or parlor cars in this state are common carriers.

SECT. 11. Whenever a person pays for the use of a double lower berth in a sleeping car, he shall have the right to direct whether the upper berth shall be opened or closed, unless the upper berth is actually occupied by some other person; and it shall be the duty of the proprietors of the car, and of the persons in charge of it, to comply with such direction.

SECT. 12. If any person or corporation shall violate the provisions of the preceding section, such person or corporation shall be fined not exceeding two hundred dollars.

HEATING PASSENGER CARS.

SECT. 13. No passenger, mail, or baggage car, except when in mixed trains composed of passenger and freight cars, shall be heated by common stoves or by any method of heating that has not been approved in writing by the board of railroad commissioners, or that is not permitted by them in the making of experiments.

SECT. 14. If the proprietors of a railroad violate the provisions of the preceding section, they shall be fined not exceeding five hundred dollars.

BAGGAGE.

SECT. 15. Every passenger, in consideration of the fare paid by him, shall be entitled to have a reasonable amount of personal baggage carried by the same train on which he goes; but if such baggage exceeds in value one hundred dollars, the proprietors of the railroad shall not be liable for its loss or damage beyond that sum, unless notice is given to them of its value and an extra charge is paid for the risk.

SECT. 16. The proprietors of every railroad shall be responsible for the safe transportation of all such baggage, and for its delivery at the station for which the same was received, and in default thereof shall be liable to pay the owner the damage sustained, after the expiration of thirty days from the time notice of the loss or injury is given to some officer, agent, or servant of the proprietors.

SECT. 17. If any baggage-master, brakeman, express agent, stage-driver, hackman, porter, or other person whose duty it is to handle, remove, or take care of baggage of passengers or travellers, shall recklessly or wilfully injure or destroy any trunk, valise, box, package, or parcel, while loading, transporting, unloading, delivering, removing, or storing it, he shall be fined not exceeding twenty dollars, for the use of the complainant, or be imprisoned not exceeding six months, or both.

SECT. 18. The proprietors of every railroad shall cause a copy of the preceding section to be kept posted at every depot on their railroad.

FREIGHT CHARGES.

SECT. 19. No railroad corporation shall charge or receive for the transportation of freight to any station on its road in this state a greater sum, including terminal charges, than is at the same time charged or received for the transportation of the like class and quantity of freight from the same original point of departure to a station in this state at a greater distance in the same direction on its road. This provision shall apply to corporations operating two or more connecting railroads in this state, as if the railroads belonged to or were operated by a single corporation.

SECT. 20. If any railroad corporation shall violate the provisions of the preceding section, it shall be fined not exceeding five hundred dollars, and shall be liable to the party injured for all damages sustained by reason of such violation. No such action shall be maintained unless it is brought within two years from the date of the violation.

TRANSPORTATION OF MILK.

SECT. 21. Every railroad corporation which shall contract with any person for the transportation of milk in large quantities over any portion of its railroad, shall establish a tariff for the transportation of milk by the can over the same portion of its railroad, with fairly proportionate advantages and facilities in every respect; but the receipt of milk in large quantities by a railroad corporation from another railroad corporation at the point of intersection of their railroads, and the transportation of the same over a part of its railroad, shall not be deemed to require the corporation to establish a tariff under the foregoing provision.

SECT. 22. In such case, if a railroad corporation shall not establish a tariff for the transportation of milk by the can, or if any person is aggrieved by the tariff established, the board of railroad commissioners, upon petition, after notice and hearing, shall establish such tariff as they shall deem to be fairly proportionate to the rates charged by the corporation for the transportation of milk in large quantities, and shall notify the corporation thereof.

SECT. 23. If a corporation shall refuse or neglect to transport milk by the can at the tariff rates so fixed by the board of railroad commissioners, it shall forfeit to the persons tendering such milk the sum of ten dollars for each can which it so refuses or neglects to transport.

TRANSPORTATION OF SOLDIERS, ETC.

SECT. 24. The proprietors of railroads shall, in time of war, insurrection, or invasion, transport soldiers, munitions of war, and other property of the state over their roads, when required by its officers and agents, at such rates as the governor and council shall impose, if the parties do not agree.

SECT. 25. They shall transport soldiers, munitions of war, and other property of the United States, and the mails of the United States, when required by the proper officers and agents, at such rates as the governor and council shall impose, if the parties do not agree, and the United States shall submit the matter to their decision.

SALE OF UNCLAIMED FREIGHT.

SECT. 26. The proprietors of a railroad, or any common carrier, may sell by auction or private sale any fresh fish, fresh meat, fruits, vegetables, grains, or other quickly perishable articles that have been transported by them and have not been removed by the owner or consignee within a reasonable time after their arrival at destination and notice of the arrival has been given to him.

SECT. 27. They may sell by auction any other property that has been transported by them and has not been removed by the owner or consignee within one year after its arrival at the place of destination. In such case, they shall post a notice of the time and place of the sale, and of the articles to be sold, in two or more public places in the town where the property is situated, seven days at least before the day of sale, and if the value of the property exceeds one hundred dollars, they shall publish a like notice in some newspaper published in that or some neighboring town.

SECT. 28. They shall make a statement of their doings in making the sale, of the proceeds thereof, of the charges and expenses incident thereto, and of their charges against the consignee or owner, and shall

cause the same to be recorded in the town clerk's office ; and they shall pay on demand the balance of the proceeds above such charges to the owner of the property or to the person entitled thereto.

RAILROAD POLICE OFFICERS, ETC.

SECT. 29. The selectmen of a town, or the mayor and aldermen of a city, may, upon petition of a railroad corporation having a passenger station within the limits of such town or city, appoint as many of the employés of such corporation as they may deem proper, police officers, to act as railroad police, for the purposes and with the powers herein set forth. Such police officers shall hold office during the pleasure of the selectmen, or mayor and aldermen, unless their powers shall be terminated as hereinafter provided.

SECT. 30. A copy of the record of the appointment of such railroad police officers shall be filed by the clerk of the corporation upon whose petition they were appointed, with the clerk of each town or city through or into which the railroad runs, and in which it is intended that they shall act; and the filing of such copy shall constitute the persons named therein railroad police officers within such towns or cities.

SECT. 31. Every railroad police officer shall, when on duty, except as a detective, wear a metallic badge in plain view, with the words "railroad police" and the name of the corporation for which he is appointed inscribed thereon.

SECT. 32. Railroad police officers may preserve order within and about the premises and upon the cars of the corporation upon whose petition they were appointed; and they may arrest, without a warrant, all idle, intoxicated, or disorderly persons frequenting such premises or cars, and obstructing or annoying, by their presence or conduct, the travelling public using the same, and all persons committing thereon any offence known to the laws of the state; and may take the persons so arrested to the nearest police station, or other place of lawful detention in the county where the offence was committed. They may carry the person so arrested to the next railroad station at which the train on which they are travelling stops, although in another county, and detain them there until the next passenger train goes to the county wherein the offence was committed, on which they shall be carried back to be taken to such police station or other place of lawful detention. The person so arrested shall be discharged or taken before a police court or a justice of peace to answer for their offence within twenty-four hours after their arrest.

SECT. 33. The compensation of railroad police officers shall be paid by the corporation upon whose petition they were appointed.

SECT. 34. Whenever a corporation shall cease to require the services of any of the railroad police officers appointed upon its petition, it may file a notice to that effect in the several offices in which notice of the appointment was filed, and thereupon the power of such officers shall cease.

SECT. 35. If a person without right loiters or remains within a station house of a railroad corporation, or upon the platform or grounds adjacent to the station, after being requested to leave the same by the station agent or by a railroad police officer, he shall be fined not exceeding twenty dollars.

SECT. 36. Prosecutions for offences against the provisions of this chapter, except those as to which other special provision is made, shall be begun within six months after the offence is committed.

CHAPTER 161.

TRUSTEES OF RAILROADS.

SECTION	SECTION
1. Trustees to call annual meetings of creditors.	5. Property transferred to new trustees.
2. If trustees do not, one third of creditors may call meeting.	6. Trustees not personally liable for damage.
3. Trustees to make report to meeting.	7. The assets are liable for such loss.
4. Creditors may choose new trustees.	8. Chancery power of supreme court.

SECTION 1. The trustees to whom a railroad has been assigned or conveyed in mortgage for the benefit of creditors, shall call a meeting of the creditors whose claims are secured by the mortgage once a year, to be holden at some place on or near the railroad, by publication in two daily papers published in Boston, Massachusetts, and one paper in each county in which the railroad is located.

SECT. 2. If the trustees, on application of such creditors to the amount of one third of the whole sum secured, do not within fourteen days call such meeting, five or more creditors, holding the like amount of claims, may call it in the same manner.

SECT. 3. At such meeting, the trustees shall make a report of the state of the trust property, and of their proceedings and management in relation thereto, according to the usual custom of directors of railroads, to the stockholders.

SECT. 4. The creditors at such meeting may elect by ballot three or five trustees, being creditors, and a majority at least residents of

the state; each creditor being entitled to one vote for each hundred dollars of his debt, and having the same right to vote by proxy as stockholders of railroads at their meetings.

SECT. 5. Upon the election of new trustees, the interest of the former trustees shall be transferred to and vest in such new trustees; and the former trustees shall render and settle an account of their trust to and with such successors, and pay and transfer to them such mortgage estate and any balances in their hands; and if a balance is due the retiring trustees, the assets of the trust shall be charged therewith.

SECT. 6. No trustees or assignees of a railroad mortgage, who have the railroad in their charge, shall, as such and without their own default, be personally responsible for any damage, by collision or force, occurring to any passenger or freight upon the railroad.

SECT. 7. In case of such damage, the company assigning or mortgaging the railroad shall be liable; and the assets in the hands of the trustees shall be holden for such damage as part of the expenses of the trust, in preference to the claims of the general creditors of the company.

SECT. 8. The supreme court shall have summary power to make all orders and decrees necessary to carry such trusts into effect.

CHAPTER 39.

[*Pamphlet Laws of 1893.*]

AN ACT RELATING TO THE HEIGHT OF RAILROAD BRIDGES AND FREIGHT CARS.

SECTION

1. Bridges to be raised when required; land taken—when; aggrieved party may appeal; expense paid by whom; when proceedings may be had.

SECTION

2. Height of bridges and freight cars prescribed.
3. Penalty for neglect to comply.
4. Takes effect; repealing clause.

SECTION 1. The board of railroad commissioners may require the proprietors of a railroad to raise any railroad bridge and any overhead highway bridge, and in the case of a highway bridge to change the approaches thereto so as to make them as nearly level as practicable. Whenever it is necessary, in complying with such requirement of the commissioners, to raise or lower or otherwise change the location of a highway outside the railroad location, any land needed for that purpose shall be taken, and the damage, if any, to landowners shall be

appraised and paid, in the manner described in chapter 158 of the Public Statutes. Any party aggrieved by such appraisal shall have a right of appeal, as provided in said chapter. The expense of such improvements shall be paid in the first instance by the railroad corporation, but, upon its petition, the commissioners may apportion such part of the cost outside the railroad location, as is in their judgment just, to the city or town, and the railroad may recover the amount so apportioned in an action of debt. Proceedings under this act shall only be had after due notice to the railroad corporation, the town or city officials, and the landowners, and all orders and findings of the commissioners shall be filed with the clerk of the town or city in which such bridge is located, and served upon the railroad corporation.

SECT. 2. No covered railroad bridge shall hereafter be constructed in this state with less than twenty-one feet between the top of the rails and the lowest point of the overhead structure, except with the written consent of the railroad commissioners, said consent to be filed and recorded in the office of the secretary of state, and no railroad corporation shall receive or haul any freight car exceeding fourteen feet in height from the rails to the top of the running board.

SECT. 3. Neglect by any railroad corporation to comply with the orders of the commissioners, within a reasonable time to be specified in such orders, shall be punished by a fine of \$50 per day, to be collected by the commissioners in the name and for the use of the state in an action of debt.

SECT. 4. This act shall take effect on its passage, and any acts or parts of acts inconsistent herewith are hereby repealed.

[*Passed January Session, 1893.*]

JOINT RESOLUTION PROVIDING FOR AN INQUIRY AND REPORT BY
THE RAILROAD COMMISSIONERS RELATIVE TO POWERS TO BE
CONFERRED ON RAILROADS NOT OPERATED BY STEAM POWER.

WHEREAS, it is the duty of the legislature to guard the reserved rights of the people and to be wary in the alienation of those rights by the exercise of the power of eminent domain, or by its transference to others, giving one individual the power to control the estate of another to private or personal advantage; and,

WHEREAS, there is always imminent danger that corporations or individuals may acquire such control to the detriment of the state; and,

WHEREAS, numerous charters are sought of this general court, and many existing corporations solicit an increase and extension of

their corporate powers over the highways and individual estates of the people, ostensibly for public convenience, but chiefly for corporate profit, and open to the suspicion of speculative purposes; and,

WHEREAS, the use of electricity as a motive power is no longer an experiment, but is to be recognized as an established factor in methods of public communication, not merely local but for extended traffic; and,

WHEREAS, the application and use of so powerful an agent should be placed under wise and watchful supervision, not only for the protection of property but from due regard for the personal safety and lives of property owners and of persons travelling upon public roads upon foot or in private carriages, all calling for cautious, well digested, and uniform laws, assuring the state of its rightful ascendancy and control; Therefore be it

Resolved by the House of Representatives, the Senate concurring: That the railroad commissioners be requested and instructed to examine and make due inquiry, and report to this or the next session of the general court, by bill, special report, or both, what general legislation, if any, the public good requires, in reference to the powers to be conferred upon, or exercised by, railroads operated by other than steam power; and that, pending such examination, and until such report is by the general court received, all bills providing for the incorporation of such railroads, or enlarging the powers of those already chartered, lie upon the table or be postponed until the next session of the general court, except in cases where additional legislation with reference to existing and new charters may be clearly demanded to subserve the public interests.

Mr. A. H. Green

THE

COMPLIMENTARY
GENERAL

RAILROAD LAW

OF THE

★ ANDREW W. GREEN

STATE OF NEW JERSEY.

Approved April 2, 1873.

TRENTON, N. J.:

MURPHY & BECHTEL, BOOK AND JOB PRINTERS, OPPOSITE CITY HALL.

1873.

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656.2 (007) -

656.2 (749) AN ACT

TO AUTHORIZE THE FORMATION OF RAILROAD CORPORATIONS

AND REGULATE THE SAME.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That any number of persons, not less than thirteen, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company; the number of years the same is to continue; the places from and to which the road is to be constructed, or maintained and operated; the length of such road as near as may be, and the name of each county in this state through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than ten thousand dollars for every mile of road constructed or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of thirteen directors of the company, a majority of whom shall be residents of this state, who shall manage its affairs for the first year, and until others are chosen in their places; each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company; on compliance with the provisions of the next section, such articles of association may be filed in the office of the secretary of state, who shall endorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and upon tendering the said articles to the secretary of state to be filed, the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association; every corporation formed under this act, in addition to the general powers set forth in an act entitled "An act concerning corporations," approved February fourteenth, eighteen hundred and forty-six, and the several supplements thereto, shall have power:

I. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route, and for such purpose by its officers and servants to enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be done thereto;

II. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad, but the real estate received as a voluntary grant shall be held and used for the purpose of such grant only;

III. To purchase, hold and use all such real estate or other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the object of its incorporation;

IV. To lay out its road as hereby provided, and to construct the same, and for the purposes of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security for the road.

V. To exercise all other powers hereby granted.

2. *And be it enacted*, That such articles of association shall not be filed and recorded in the office of the secretary of state until at least two thousand dollars of stock for every mile of railroad proposed to be made, is subscribed thereto, and ten per centum paid thereon in good faith, and in cash, to the directors named in said articles of association, nor until there is endorsed thereon, or annexed thereto, an affidavit, made by at least five of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per centum paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association as aforesaid.

3. *And be it enacted*, That a copy of any articles of association filed and recorded in pursuance of this act, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the secretary of this state, shall be presumptive evidence of the incorporation of such company and of the facts therein stated.

4. *And be it enacted*, That when such articles of association and affidavit are filed and recorded in the office of the secretary of state, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, continue to receive subscriptions until the whole capital stock is subscribed; at the time of subscribing every subscriber shall pay to the directors ten per centum on the amount subscribed by him, in money, and no subscriptions shall be received or taken without such payment.

5. *And be it enacted*, That there shall be a board of thirteen directors of every corporation formed under this act to manage its affairs; said directors shall be chosen annually by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places; in the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him; vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation; the inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association; no person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen; at every election of directors the books and papers of such company shall be exhibited to the meeting, provided a majority of the stockholders present shall require it.

6. *And be it enacted*, That the directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws, and shall establish and fix such salaries to them and to the president as to said board of directors shall appear proper.

7. *And be it enacted*, That the directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper; if any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have

caused a notice, in writing, to be served on him personally, or by depositing the same in the post office, properly directed to him at the post office nearest his usual place of residence, stating that he is required to make such payments at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon, will be forfeited for the use of the company; which notice shall be served as aforesaid at least thirty days previous to the day on which such payment is required to be made; *provided*, that if said company shall not declare such stock forfeited then such neglecting stockholder shall be individually liable to said company for the amount unpaid upon the stock so held by him, until the whole amount of the capital stock so held by him shall have been paid to the company.

8. *And be it enacted*, That the stock of every company formed under this act shall be deemed personal estate, and be transferable in the manner prescribed by the by-laws of the company, but no shares shall be transferable until all previous calls thereon shall have been fully paid in.

9. *And be it enacted*, That in case the capital stock of any company formed under this act, is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time, to any amount required for the purpose of constructing, maintaining and operating its railroad; such increase may be sanctioned by a vote in person or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him, at the post office nearest his usual place of residence, in the post office, at least twenty days prior to such meeting; such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock; the proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

10. *And be it enacted*, That as often as any contractor for

the construction of any part of a railroad which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; the said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor; such notice shall be given by such laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made; such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer or his attorney, and shall be served on an engineer, agent, or superintendent employed by such company having charge of the section of the road on which such labor was performed, personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age; but no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided; *provided*, that the liability of the company under this section shall not exceed its liability to the contractor; *and provided further*, that any payments made to such laborers shall be a full discharge to the company from such contractor for the amount so paid.

11. *And be it enacted*, That any railroad constructed under the provisions of this act shall not exceed a hundred feet in width, unless more land shall be required for the slopes of cuts and embankments, with as many sets of tracks and rails as such company incorporated under this act may deem necessary; and it shall be lawful for the said company its agents, engineers, superintendents, or others in its employ, to enter at all times upon all lands or waters for the purpose of exploring, surveying, leveling, and laying out the route or routes of such railroad, and of locating the same, and to locate all necessary works, buildings, conveniences, appurtenances and appendages thereof, doing no unnecessary injury to private or other property; and when the route or routes of such railroad and the location or locations of other

works, buildings, conveniences, appurtenances and appendages thereof shall have been determined upon, and a survey of such route or routes, location or locations, deposited in the office of the secretary of state, then it shall be lawful for every corporation formed under this act, upon payment or tender of such compensation as is hereinafter provided, by its officers, agents, engineers, superintendents, workmen and other persons in their employ, to construct, maintain and operate a railroad with a single or double track, with such side tracks, turnouts, offices and depots as they may deem necessary between the points named in the articles of association, commencing at or within and extending to or into any town, city or village named as the place of the termini of such road, and construct, maintain and operate branches from the main line to other towns or places within the limits of any county through which said road may pass, lay rails, and for that purpose to enter upon, take possession of, hold, have, use, occupy, and excavate any lands, and to erect embankments, bridges, and all other necessary works and to do all other things which may be suitable or necessary for the completion, repairs or management of said railroad, and for the conveyance of passengers and freight to and from the terminus thereof by steam or other motive power; *provided, always*, that the payment or tender of the payment of all damages for the occupancy of all lands through, under or upon which the said railroad and its conveniences, appurtenances and appendages may be laid out or located be made before the said company, or any person under their direction or employ shall enter upon or break ground in the premises, except for the purpose of surveying and laying out said railroad and its conveniences, appurtenances and appendages, and of locating the same, unless the consent of the owner or owners of such lands be first had and obtained.

12. *And be it enacted*, That when any company incorporated under this act or its agents cannot agree with the owner or owners of such required lands for materials, or the use or purchase thereof, or when by the legal incapacity or absence of such owner or owners, no such agreement can be made, a particular description of the land or materials so required for the use of such company incorporated under this act in the construction of said road, shall be given in writing, under oath or affirmation of some engineer or

proper agent of the company, and also the name or names of the occupant or occupants, if any there be, and of the owner or owners, if known, and their residence, if the same can be ascertained, to one of the justices of the supreme court of this state, who shall cause any company incorporated under this act to give notice thereof to the persons interested, if known and in this state, or if unknown and out of this state, to make publication thereof as he shall direct, for any term not less than ten days, and to assign a particular time and place for the appointment of the commissioners hereinafter named, at which time, upon satisfactory evidence to him of the service or publication of such notice aforesaid, he shall appoint under his hand and seal three disinterested, impartial and judicious freeholders, residents in the county in which the land or materials in controversy lie or the owners reside, commissioners to examine and appraise the said land or materials and to assess the damages upon such notice to be given to the persons interested, as shall be directed by the justice making such appointment, to be expressed therein, not less than ten days; and it shall be the duty of said commissioners (having first taken and subscribed an oath or affirmation before some person duly authorized to administer an oath, faithfully and impartially to examine the matter in question and to make a true report according to the best of their skill and understanding), to meet at the time and place appointed and to proceed to view and examine the said land or materials, and to make a just and equitable estimate or appraisement of the value of the same, and an assessment of damages to be paid by the company for such lands or materials and damages aforesaid, which report shall be made in writing under the hands and seals of the said commissioners, or any two of them, and filed within ten days thereafter together with the aforesaid description of the land or materials, and the appointment and oaths or affirmations aforesaid, in the clerk's office of the county in which the land or materials are situate, to remain of record therein and thereupon and on payment or tender of payment of the amount awarded as hereinafter provided, the said company is hereby empowered to enter upon and take possession of the said lands or materials for the purposes aforesaid, and the said report or a copy thereof certified by the clerk of said county and proof of payment or tender of the amount awarded shall at

all times be considered as plenary evidence of the right of any company incorporated under this act, to have, hold, use, occupy, possess and enjoy the said land or materials, or of the said owner or owners to recover the amount of said valuation, with interest and costs in an action of debt in any court of competent jurisdiction, in a suit to be instituted against the company if they shall neglect or refuse to pay the same for twenty days after demand made of their treasurer, and shall from time to time constitute a lien upon the property of the company in the nature of a mortgage; and the said justice of the supreme court shall upon application of either party, and on reasonable notice to the others, tax and allow such costs, fees and expenses to the justice of the supreme court, commissioners, clerks and other persons performing any of the duties prescribed in this section as he shall think equitable and right, which shall be paid by the company; *provided, always*, that should any company incorporated under this act, or the owner or owners of any of the land or materials, feel aggrieved by the decision of the commissioners aforesaid, he, she or they may appeal to the next circuit court in the county wherein the said land or material may be.

13. *And be it enacted*, That every appeal from the decision of the commissioners appointed under the preceding section shall be made in writing, and in the form of a petition to said court, and filed with the clerk of the said circuit court of the county wherein the land or materials appraised by the said commissioners shall be, and notice in writing of such appeal shall be given to the opposite party within ten days after the filing thereof, which proceeding shall vest in the circuit court full right and power to hear and adjudge the same, and to direct a proper issue for the trial of said controversy to be formed between the said parties, and to order a jury to be struck and a view of the premises to be had, and the said issue to be tried at the next term of said court to be holden in the said county, upon the like notice and in the same manner as other issues in the said court are tried; and it shall be the duty of the said jury to assess the value of the said land or materials and damages sustained, and if they shall find a greater sum than the said commissioners have awarded in favor of the said owner or owners, then judgment thereon, with costs, shall be entered against any company incorporated under this act,

and execution awarded therefor; but if the said jury shall be applied for by said owner or owners and shall find a less sum than the company shall have offered or the said commissioners shall have awarded, then said costs shall be paid by said applicant or applicants, and either deducted out of said sum found by the said jury or execution awarded therefor, as the said court shall direct; but such application shall not prevent the company from taking the said land, upon filing the aforesaid report; *provided*, that in no case whatever shall said company incorporated under this act enter upon or take possession of any land of any person or persons for the purpose of actually constructing said railroad, or of making any erections or improvements whatever, or otherwise appropriating said lands to the use of any company incorporated under this act, until they have paid to the party or parties entitled to receive the same the amount assessed by the commissioners as the value of such land or damages, in case the report of commissioners is not appealed from or if the same is appealed from then the amount which shall be found by the jury by whom the issue shall be tried; but in case the party or parties entitled to receive the amount assessed by the commissioners, in case there shall be no appeal, and in case of appeal, the amount found by the jury, shall refuse upon tender thereof being made to receive the same, or shall be out of the state or under any legal disability, then the payment of the amount assessed or found as aforesaid, into the circuit court of the county wherein the said lands lie, shall be deemed a valid and legal payment; *and further*, that the party or parties entitled to receive the amount assessed by the commissioners, may upon tender thereof being made receive the same without being barred thereby from his or their appeal from the report of the commissioners; and on such tender or payment of the money into court, in case it be refused, as aforesaid, the said company shall be empowered to enter upon and take possession of said lands and proceed with the work of constructing its road.

14. *And be it enacted*, That it shall be the duty of any company incorporated under this act to construct and keep in repair good and sufficient bridges and passages over, under and across the said railroad where any public or other road now or hereafter laid, shall cross the same, so that the passage of carriages, horses and cattle on the said road shall not be impeded thereby; and also where the road shall intersect any farm or lands of any individual, to provide and

keep in repair suitable and convenient wagon ways over, under and across the said railroad, and shall also construct and maintain suitable and proper cattle guards at all road crossings; *provided*, that in case said railroad shall cross any street or highway in any city, it shall be either above or below the grade thereof, at such distance as shall not interfere with the free and uninterrupted use of said streets or highways; *provided further*, that the common council of any city may grant permission to said company to cross such streets or highways at grade, if they shall deem it to be the best interest of said city.

15. *And be it enacted*, That the president and directors of any company incorporated under this act, shall have power to have constructed, or to purchase with the funds of the company, all machinery, engines, wagons, carriages or cars for transportation of persons or any species of property on the said railroad, and any such company shall have power and be authorized to demand and receive such sums of money for the transportation of persons and property on said railways and their connections, and for any other services connected with the business of transportation on or over said railways or to and from the same as it from time to time shall think reasonable and proper; *provided*, that said company shall not charge more than three cents per mile for carrying each passenger, and tickets for passengers shall be good until used, but no charge shall be required in the aggregate to be less than ten cents, nor shall said company charge more than ten cents per mile per ton for the transportation of any description of property; *provided*, that any company formed under the provisions of this act shall not be entitled to charge or receive any greater sum of money for freight upon goods, wares or merchandize transported between way stations, or between a terminal station and a way station than they charge and receive for freight upon such goods, wares, and merchandize between the terminal stations of such railroad, and the said railroad with its appendages, and the lands over which the same shall pass, and all the work and improvements, and all other property whatsoever belonging to the company shall be and are hereby declared to be vested in the said company, and its successors, for and during the continuance of its charter.

16. *And be it enacted*, That the president and directors of any company incorporated under this act shall declare

and make such dividends as they may deem prudent and proper from time to time, out of the net profits of the said railroad.

17. *And be it enacted*, That any company incorporated under this act may purchase, have and hold real estate at or near the commencement and termination of the said road, or at any other point on the line of the said road where the directors may think proper to establish a depot, not exceeding ten acres at each place, and may also erect and build thereon houses, warehouses, workshops and such other buildings and improvements as they may deem expedient for the safety of their property, and for other necessary uses appertaining to their business, and receive the rents and emoluments thereof, and may build and maintain over such streams as the road may cross, such piers and bridges as they may deem expedient; and that all lands, tenements, hereditaments and real estate acquired by any such company not used by it for the immediate use and occupancy of its rails, tracks, depot and freight buildings shall be subject to the same tax as the property of individuals, and said tax shall be assessed, levied and collected by the authorities where the same may lie, in the same manner as other taxes are levied, assessed and collected, any law, custom or usage to the contrary notwithstanding; and that it shall be lawful for any corporation incorporated under this act at any time during the continuance of its charter to lease its road, or any part thereof, to any other corporation or corporations, of this or any other state, or to unite and consolidate as well as merge its stock, property, and franchises and road with those of any other company or companies, of this or any other state, or to do both; and such other company and companies are hereby authorized to take such lease, or to unite, consolidate as well as merge its stock, property, franchises and road with said company, or to do both, and after such lease or consolidation the company or companies so acquiring said stock, property, franchises, and road, may use and operate such road and their own roads, or all or any of them and transport freights and passengers over the same, and take compensation therefor, according to the provisions and restrictions contained in this act, notwithstanding any special privilege heretofore granted, or hereafter to be granted to another corporation for the transportation of freights and passengers between any points on the lines of said roads or any other points within or without this state; *provided*

however, that nothing in this act shall authorize any railroad companies incorporated under a special act of legislature, to charge for transportation of freight or passengers over the roads constructed under said special act more than they may be authorized to charge by the provisions of their respective acts of incorporation.

18. *And be it enacted*, That if any person shall willfully impair, injure, destroy or obstruct the use of the railroad enjoyed under the provisions of this act or of any of their necessary works, wharves, bridges, carriages, or machines, such person or persons so offending, shall forfeit and pay to such company incorporated under this act, the sum of fifty dollars, to be by them recovered in any court having competent jurisdiction, in an action of debt; and further shall be liable for all damages sustained.

19. *And be it enacted*, That as soon as any railroad or any part thereof, is in operation, the president of the said company shall file, under oath or affirmation, a statement of the amount of the cost of the said railroad, including equipment, appendages and all expenses, in the office of the comptroller of the state, and annually thereafter on the first Monday of January of each year, he shall, under oath or affirmation, make a statement to the comptroller of the state, of the cost, equipment, appendages and expense of said road, including the cost of road bed; and after the said railroad or any part thereof shall be in operation, the said corporation shall pay to the treasurer of this state a tax of one-half of one per centum on the cost, equipments and appendages of said road, including the cost of road bed, to be paid annually thereafter on the first Monday of January of each year, and such other taxes as may be assessed from time to time by a general law, applicable to all railroads over which the legislature shall have power for that purpose, at the time of the passage of such law or laws, and the said corporation shall be regularly assessed and pay tax for the value of its real estate, (excepting the road bed one hundred feet in width,) improvements thereon, and personal property as now taxed in the city or cities, township or townships wherein it lies, at the same time and rate, and in the same manner, for the same purposes, and by the same person or persons, as the other taxes assessed in said city or cities, township or townships.

20. *And be it enacted*, That any company incorporated

under this act, shall have power to borrow such sum or sums of money, from time to time, not to exceed in the whole its paid up capital stock, as shall be necessary to build, construct or repair their road, and furnish all necessary engines and other equipments for the uses and objects of said company, and to secure the repayment thereof by the execution, negotiation and sale of any bond or bonds, and secured by mortgage on said lands, privileges, franchises and appurtenances of and belonging to the said company; *provided*, that said company shall not plead any statute or statutes against usury in any court of law or equity in any suit instituted to enforce the payment of any bond or mortgage executed under the provisions of this section; *and provided further*, that said bonds shall constitute a first lien on the railroad, its cars, real estate and franchises, and the proceeds of said bonds shall be used for the purpose of aiding in the construction of said railroad.

21. *And be it enacted*, That whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike, or plank road, such highway, turnpike or plank road may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plank road desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plank road, on such new line as may be deemed requisite by the directors, unless the lands so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands, the same, when so taken, shall become a part of such intersecting highway, turnpike or plank road, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plank road may be held for highway purposes.

22. *And be it enacted*, That every conductor, baggage master, engineer, brakeman, or other servant of any railroad corporation employed in a passenger train or at stations for passengers, shall wear upon his hat or cap a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed; no conductor or

collector without such badge shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

23. *And be it enacted*, That companies whose roads shall be constructed under the provisions of this act shall have the right to connect their roads with any railroads within this or any other state upon such terms as may be agreed upon by those who have the management of said roads, and in case of a failure of an agreement on the part of those having the management of said roads within this state, then and in that case either of said parties may apply to the supreme court within the jurisdiction in which said connection is proposed to be made, whose duty it shall be to appoint three disinterested citizens as herein provided for the condemnation of land, who shall determine and fix said terms, which, when approved by said court, shall be conclusive, and thereupon said companies shall be required to carry said terms into effect; and all companies whose railroads are or shall hereafter be crossed, intersected, or joined, shall receive from each other and forward to their destination all goods, merchandize, and other property intended for points on their respective roads, with the same despatch and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandize, and other property received at and forwarded from the same point for individuals and other corporations.

24. *And be it enacted*, That any such corporation shall, when applied to by the postmaster general, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandize transported in their merchandize trains, and a fair compensation for the post office car; and in case the

postmaster general shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof for the service, to be fixed as aforesaid.

25. *And be it enacted*, That if any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling house, as the conductor shall elect on stopping the train; *provided*, that no passenger shall be put off on any bridge or in any dangerous place.

26. *And be it enacted*, That every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall within a reasonable time previous thereto be offered for transportation at the place of starting, and the junctions of other railroads, and at usual stopping places established for receiving and establishing way passengers and freights for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor; and shall be liable to the party aggrieved in an action for damages for any neglect or refusal in the premises.

27. *And be it enacted*, That a check shall be affixed to every parcel of baggage when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop or fixture, so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; *and further*, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train, and on producing said check, if his baggage shall not be delivered to him, he may himself be a witness in any suit

brought by him to prove the contents and value of said baggage.

28. *And be it enacted*, That in forming a passenger train, baggage, freight, merchandize or lumber cars shall not be placed in rear of the passenger cars; and if they or any of them shall be so placed, the officer or agent who so directed or knowingly suffered such arrangement, and the conductor of the train, shall be deemed guilty of a misdemeanor and be punished accordingly.

29. *And be it enacted*, That a bell shall be placed on each locomotive engine and rung at the distance of at least eighty rods from the place where the railroad shall cross any traveled public road or street, and be kept ringing until it shall have crossed such road or street; or a steam whistle shall be attached to each locomotive engine and be sounded at least eighty rods from the place where the railroad shall cross any such road or street, except in cities, and be sounded at intervals until it shall have crossed such road or street, under a penalty of twenty dollars for every neglect of the provisions of this section, to be paid by the corporation owning the railroad, to be sued for by any informer within ten days after such penalty was incurred; one-half thereof to go to the informer and the other half to go to the county; and said corporation shall also be liable for all damages which shall be sustained by any person by reason of such neglect.

30. *And be it enacted*, That every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each traveled public road or street, where the same is crossed by the railroad on the same level; said boards shall be elevated so as not to obstruct the travel and to be easily seen by travelers; and on each side of such boards shall be painted in capital letters, of at least the size of nine inches each, the words "look out for the locomotive;" but this section shall not apply to streets in cities or villages, unless the corporation shall be required to put up such boards by the officers having charge of such streets.

31. *And be it enacted*, That if any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

32. *And be it enacted*, That every corporation formed under this act shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with openings or gates or bars therein, and farm crossings of the road for the use of proprietors of lands adjoining such railroad; and also construct and maintain cattle-guards at all road crossings suitable and sufficient to prevent cattle and animals from getting on to the railroad; until such fences and cattle-guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agent or engines to cattle, horses or other animals thereon; and after such fences and guards shall be duly made and maintained, the corporation shall not be liable for any such damages, unless negligently or willfully done; and if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards other than at farm crossings, without the consent of the corporation, he shall, for every such offense, forfeit a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved; it shall not be lawful for any person other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except where the same shall be laid along public roads or streets.

33. *And be it enacted*, That in case any passenger on any railroad shall be injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside of its passenger cars then on the train, such company shall not be liable for the injury; *provided*, said company at the time furnished seats inside its passenger cars sufficient for the proper accommodation of the passengers.

34. *And be it enacted*, That the said company shall commence the proposed road within six months from the date of their organization, and if the said proposed road be not more than fifty miles in length, the said company shall open and complete at least one track of said road, within two years from the date of commencement, as aforesaid; and if the said road shall exceed fifty miles in length, the said company shall have an additional six months to complete their road for each twenty miles more than the fifty miles

aforesaid; *provided*, the road shall be opened for public use in all cases when fifty miles of the track are laid; *provided further*, that any company organized under this act and failing to comply with the provisions of this section, shall thereby forfeit the franchises given it by this act.

35. *And be it enacted*, That any company, association, person or persons, violating or neglecting to comply with any of the provisions of the first or second sections of this act, shall be liable to a penalty of two hundred and fifty dollars for each and every offence, to be sued for and recovered in the name of the state of New Jersey; one-half of which fines when recovered, shall be paid to the informer, and the other half into the county treasury, where the action shall be tried or the conviction had.

36. *And be it enacted*, That it shall be lawful for any company incorporated under this act, in addition to the power hereinbefore given, to build viaducts over any navigable or other rivers, streams or bay of water which said railroad may cross, putting in such viaduct a pivot draw with two openings, each of no less width than the widest opening in any viaduct or bridge now built over any such river, stream or bay of water at right angles to the main channel, located at a point convenient for navigation, and such company shall at all times, when such river, stream or bay is navigable, for the safety of persons navigating the same, cause to be kept a red light at each outer side of said draws, and a white light on each inner side of said draws, which shall be lighted every evening at or before sunset and be kept lighted till daylight, and shall also keep or cause to be kept, a suitable person or suitable persons at each of said bridge to open the draws for the free passage of all vessels with standing masts or pipes; and for each and every neglect to keep such light, and to open the draws when necessary, the said company shall forfeit and pay the sum of one hundred dollars, to be recovered with costs, in any court having jurisdiction thereof, by any persons who shall sue for the same, within six months after the time of such neglect; *provided*, that corporations formed under this act shall not take any land under water belonging to this state until the consent of the riparian commissioners shall first be had and obtained, who are hereby authorized to convey the same on receiving such compensation as they may fix; *provided further*, that no corporation organized under this act shall

be authorized to take, use or occupy by condemnation any lands belonging to the state of New Jersey, or any franchises, lands, or located route of any bridge, railroad, canal, turnpike, or other corporation chartered for the purpose of facilitating transportation, except for the purpose of crossing said lands or route of said corporation, and except the lands of such other corporations not necessary for the purposes of their franchises; *and provided further*, that a railroad may be located or constructed under this act on the surveyed route or location of any other railroad, with the consent of such corporation, and not otherwise; *and provided further*, that no railroad under this act shall cross another railroad at a less angle than forty-five degrees.

37. *And be it enacted*, That the governor, the chancellor, vice chancellor, the justices of the supreme court and the judges of the court of errors of this state, secretary of state, state treasurer, comptroller of the treasury, clerk in chancery, clerk of the supreme court, adjutant general, quartermaster general, state librarian, state prison keeper and superintendent of public schools of New Jersey, while traveling for the purpose of discharging the duties of their offices, and the members and officers of both houses of the legislature of this state shall pass and repass, free of charge on the railroad of any company incorporated under this act.

38. *And be it enacted*, That no franchise heretofore granted to construct a railroad, or to build or establish bridges or ferries, or operate any line of travel, and take tolls or fares therefore, shall hereafter continue to be or be construed to remain exclusive, and that no like franchise hereafter granted shall be or be construed to be exclusive, unless in such grant heretofore made or hereafter to be made it be so expressly provided, and the provisions of the second section of the act entitled "An act to prevent accidents on railways," approved March thirtieth, one thousand eight hundred and sixty-nine, shall not be considered to extend to or to affect in any way or manner corporations which may be formed under this act; all corporations organized under this act shall be subject to all general laws, now or hereafter to be passed, regulating railroads and their operations.

39. *And be it enacted*, That this act shall be deemed a

public act and shall take effect immediately, and the legislature may alter, amend or repeal the same, but such repeal or alteration shall not affect any corporations heretofore organized, unless the act making such repeal or alteration shall so expressly declare.

APPROVED, APRIL 2, 1873.

C.

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LAWS OF OHIO

5. C.
P. 451

RELATING TO

RAILROADS,

PASSED DURING THE

SESSION ENDING APRIL 20, 1874.

P 1201
COLUMBUS:
NEVINS & MYERS, STATE PRINTERS.
1874.

UNIVERSITY OF OHIO LIBRARIES
COLUMBUS, OHIO
1868.

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56.2 (007) -
56.2 (771)

LAWS RELATING TO RAILROADS.

AN ACT

To amend section three (3) of an act entitled "An act to prevent Collisions on Railroads within the State of Ohio," passed March 24th, 1860. (S. & C., p. 372.)

[O. L., Vol. 71, p. 50.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section three (3) of the above recited act be so amended as to read as follows :

Section 3. That every engineer, or person in charge of an engine, who shall willfully fail to comply with the provisions of the first section of this act, or shall fail to bring the engine of which he is in charge, with the train, if any, thereto attached, to a full stop at least two hundred feet before arriving at any railroad crossing or connection, or shall cross the same before signaled so to do by the watchman, or before the way is clear, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred (\$100) dollars, or imprisoned in the jail of the proper county for a term not exceeding thirty (30) days, or both, at the discretion of the court, and shall moreover be personally liable therefor to the person or persons injured to a penalty of one hundred dollars, to be recovered by civil action, at the suit of the state of Ohio, in the court of common pleas of any county where such crossing or connection exists ; and the company in whose employ such engineer or person in charge of an engine may be, as well as the person himself, shall be liable in damages to any person or company who may be injured in person or property by the neglect or act of said engineer or person in charge of an engine as aforesaid ; and such engineer or person in charge of an engine shall also, in case any person be killed by reason of his neglect or failure to bring such engine and train of cars, if any there be attached thereto, to a full stop at least two hundred feet before reaching a crossing or connection with the track of another railroad, or by reason of his crossing the same before being signaled so to do by the watchman there stationed, or before the way is clear, be liable to indictment, conviction and punishment for manslaughter ; or in case any person sustain bodily injury, not affecting life, by reason thereof, then such engineer or person in charge of an engine, as aforesaid, shall be considered guilty of a misdemeanor, and shall, on conviction thereof in the proper court of the county where such bodily injury occurred, be imprisoned in the jail of the county not less than one nor more than twenty months, or be fined in any sum not more than five hundred dollars, or both, at the discretion of the court.

Duty of engineer at crossing, and penalties for neglect.

Liability of employer.

SEC. 2. The original section three (3) of the above recited act is hereby repealed, and this act shall be in force from and after its passage.

Passed March 31, 1874.

AN ACT

To secure pay to persons performing labor or furnishing materials in constructing Railroads.

[O. L., Vol. 71, p. 51.]

Payment for
construction
of railroad,
etc., to whom
and how
paid, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person or corporation contracting for the construction of a railroad, depot buildings, water tanks, or any part thereof, shall be liable to and shall pay each person performing labor or furnishing materials stipulated for in the contract with the owner of said road, under a contract, express or implied, with the original contractor, or with any sub-contractor for the whole or any part of the work stipulated in the original contract with the owner of the railroad: Provided, that if the aggregate amount of the indebtedness of said contractor or sub-contractor for said labor and materials exceed ninety per cent. of the contract price for said labor and materials in the contract between the owner of the road and the first contractor, then the person or corporation owning said road shall pay to each person performing said labor or furnishing materials such a per cent. of their claims as ninety per cent. of the first contract price for said labor and materials is of the aggregate amount unpaid of the indebtedness for said labor and materials; and any person or corporation contracting for the construction of the whole or any part of a railroad, shall provide in the contract that the labor performed and materials furnished under the stipulations of the contract shall be paid as herein provided by the company to the persons to whom the same may be due, before any part of the contract price is paid to the contractor; provided, that any person performing said labor or furnishing said materials, who has not been paid therefor, shall serve a notice in writing upon the secretary or other officer or agent of said railroad company, by delivering a copy of said notice, or leaving a copy at his usual residence or place of doing business, within thirty days from the date that said person ceased furnishing said materials or laboring on said road as aforesaid, stating in said notice the kind and amount of materials furnished or labor performed, the time when, the contractor or sub-contractor for whom, and the section and place where, on the line of the road, said labor was performed or materials were furnished by him as aforesaid, and the amount due him therefor; and any person failing to serve said notice within said time, shall be deemed and held to have waived all claim under this act against the said railroad company.

Service of
notice, &c.

SEC. 2. That each contractor or sub-contractor shall have at least five days' notice of the time the claim for labor performed and materials furnished under a contract with him will be paid, which may be served upon him by the owner of said road personally, or upon his authorized agent in writing, signed by the owner, his agent or some officer or agent of the company owning said road, stating therein the time said claims will be paid, and, on request of said contractor or sub-contractor, he shall be permitted to examine said claims before they are paid, at any time after said notice has been given; and if he dispute any of the claims, the company or owner of the road shall withhold payment of the disputed claims until they are adjusted; if the matter cannot be adjusted between the parties it may be submitted to the arbitrament of three disinterested persons, one to be chosen by each party and the third by the two thus chosen, and their decision or the decision of any two of them shall be final and conclusive in the matter submitted: Provided, that the claimant shall in each case be required to prosecute his claim before the proper tribunal within thirty days, and prosecute the same to final judgment without delay.

Notice to contractor of time of payment, &c.

SEC. 3. The several provisions of the foregoing sections shall apply to and include any person who shall furnish boarding to such contractor or sub-contractor for the persons employed by them or either of them in furnishing materials for or in the construction of such railroad; and in every such case the notice required in section one of this act shall have attached thereto an itemized account of such board, showing the name of the contractor or sub-contractor for whom such board was provided, the time when the several persons to whom the same was furnished by said boarding-house keeper, and the several amounts unpaid for each respectively. The word owner in this act shall be held and considered as including any lessee, receiver, corporation, company or person owning, operating or managing any railroad with whom or in whose behalf the contracts named in this act shall have been made.

Application of the foregoing provisions, &c.

SEC. 4. This act shall take effect and be in force from and after its passage.

Passed March 31, 1874.

AN ACT

To amend an act entitled "An act supplementary to an act to provide for the creation and regulation of Incorporated Companies in the State of Ohio," passed May 2, 1871. (O. L., Vol. 68, p. 129.)

[O. L., Vol. 71, p. 54.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the above recited act be amended so as to read as follows:

Extension of
railroad
through
counties not
named in
original cer-
tificate.

Filing of
certificate.

Liability for
damages
arising from
change of
line, &c.

Section 1. That whenever any railroad company heretofore incorporated, the line of whose railway has not been finally located in whole or in part, by resolution of the board of directors, shall find it necessary in order to avoid dangerous or difficult curves or grades, or dangerous or unsubstantial grounds or foundations, or for other reasonable causes, to pass through the territory of any county not named in the original certificate of incorporation, or to avoid passing into or through the territory of any county named in the original certificate of incorporation, other than a county in which one of the terminal points of such railway may be fixed by the original certificate of incorporation, or in which may be located a town or place by or through which the line of such railway, by the calls of such original certificate, is to pass, the president and directors of such railway company, or a majority of them, shall, under their hands and seals, make a certificate declaring such necessity and the cause or causes thereof, and naming therein the county or counties through which it may be necessary to pass, or to avoid passing into or through, which certificate shall be acknowledged before some justice of the peace, and certified by the clerk of the court of common pleas, and forwarded to the secretary of state and filed in his office and preserved therein, as is or may be provided by law for original certificates of incorporation; and a copy of such certificate, certified by the secretary of state, under the great seal of the state, shall be evidence of the facts therein stated: Provided, that nothing herein shall be construed so as to authorize the abandonment of any part of such company's line as may have been finally located; and provided further, that nothing in this act shall be construed so as to authorize a change of the general route of the line of such railway, or the terminal points named in the original certificate of incorporation.

SEC. 2. That in any case where the line of any railway company shall, under authority given by this act, be diverted from any county named in the original certificate of incorporation, such railway company shall be liable in damages when any shall be caused by such change or diversion to any person or persons owning land in such county, and all persons who may have subscribed to the capital stock of said railroad, on the line of that part of said railroad, to be changed by the provisions of this act, shall be released from all obligations to pay such subscription: Provided, that no action shall be commenced for such damages after six months from the filing of such certificate as is provided for in the first section of this act, with the secretary of state, and the publication of notice thereof by such company, for four consecutive weeks in some newspaper printed in such county, or if none be printed there, then in some newspaper having general circulation therein, saving the rights of infants, lunatics and persons imprisoned for six months after disability removed.

SEC. 3. Said original act passed May 2, 1871, is hereby repealed.

SEC. 4. This act shall be in force from its passage.

Passed March 30, 1874.

AN ACT

To amend section one of an act entitled "An act providing for inclosing Railroads by Fences and Cattle-guards," as amended April 26, 1871. (Laws of 1871, page 78.)

[O. L., Vol. 71, p. 85.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the above recited act be amended so as to read as follows :

Section 1. That any railroad company, or other party having control or management of a railroad, the whole or a part of which is now or shall be in this state, is hereby required, at their own expense, to construct good and sufficient fence to turn stock along the whole line, except as hereinafter provided, on both sides of said railroad, within six months after the passage of this act, along the line of the lands of the railroad, in operation at the date of the passage of this act, which then have not been fenced as required by this act, and within six months from the time cars are commenced to be run for the transportation of passengers or freight, on all railroads that have not commenced running regular trains at the date of the passage of this act, and at their own expense to keep said fences up in good repair thereafter; and also to make and maintain safe and sufficient crossings of good width at every point where any public road, street, lane or highway may cross said railroad, that is or may be used by the public, with the necessary cattle-guards on each side of said crossings, to prevent cattle or other domestic animals from endangering themselves and the lives of passengers by getting upon such railroads; and every such railroad company or party shall be liable for all damages sustained in person or property in any manner by reason of the want or insufficiency of any such fence, crossing or cattle-guard, or any carelessness or neglect of said company, their agent or agents, in constructing or keeping the same in repair. And any farmer or person owning fifteen or more acres of land in one body through which such railroad may or does pass, and which is so situate that the owner thereof cannot use one of said crossings in a public street, road, lane or highway, over said railroad in passing from his land on one side of said railroad to that of the other without great inconvenience, then said company or party operating said road shall, at the request of said land-owner, within four months after such request, at the expense of such company or party, construct a good and sufficient private crossing over said railroad and the lands occupied by the company between the two pieces of land of said land-owner, to enable him to pass with a loaded team, and over which said land-owner shall have the privilege of passing at all times when the company is not using their road at said crossing, or so near as to render it dangerous crossing there. If said railroad company or other party shall neglect or refuse to construct said fences within the time fixed in this act, then and at any time after the expiration of six months, the owner of any land abutting

Fences must be constructed within six months.

Also, road crossings and cattle-guards.

Liability for damages.

Private crossings.

If neglected
by company,
land-owners
may con-
struct, etc.

Fences, etc.,
must be kept
in repair.

Land-owner
may con-
struct cross-
ing after four
months.

on the line of the land of said railroad line, may construct the fence herein provided, so far as his land abuts on said railroad lands, and when he has completed said fence he may make an itemized account of the material, labor and cost of constructing said fence, and present it for payment to the agent of said company for receiving and shipping freight at the station nearest said tract of land fenced as aforesaid; if said company or other party neglect or refuse to pay the same for thirty days, then the person constructing said fence may recover the costs and expense of constructing the same from the owner of the road in any court having jurisdiction of the same; and when said fence is completed it shall be the duty of the company to keep the same in good repair, and if any such company or other party shall permit any part of the fence on the line of its road to get out of repair so that it will not turn stock, the owner of the land abutting on said railroad lands where such fence is out of repair as aforesaid, may notify the agent of the company for receiving and shipping freight, at the station on said road nearest to the place where said fence is out of repair, that a portion of the fence on the line of the road is out of repair, stating where, how, and the probable cost of repairing the same, and if said company or party shall fail for twenty-four hours to repair said fence so that it will turn stock, then it shall be lawful for the owner of said land to furnish materials and repair the same, and present an itemized account of the materials, labor and expense of repairing said fence to said agent at the station nearest the place where said repairs were made, for payment, and if the same shall not be paid within thirty days thereafter, then the person repairing said fence may recover from the owner of said road the cost and expense of said repairs before any court having jurisdiction thereof. And the lessee of any railroad shall, for the purposes of this act, be deemed the owner of said road. And if such railroad company or party shall neglect, for four months after request by any such land-owner for that purpose to construct a good and sufficient private crossing for him as herein provided, it shall be lawful for such land-owner, after having given reasonable notice to the agent of the company for receiving and shipping freight at the station on said railroad nearest to the land where it is proposed to construct such private crossing, of the time when such land-owner shall proceed to construct such crossing, to enter upon the lands of such company at any point he may desire between his lands, and construct a good and sufficient private crossing; and said company or party shall be liable to such person for all the expense thereof, not exceeding the sum of fifty dollars, and he may recover the same in an action against said company or party before any court having jurisdiction thereof: Provided further, that this act, so far as it relates to fences or private crossings, shall not apply to any case in which compensation for building a fence or fences or a private crossing was or shall hereafter be taken into consideration, and estimated as a part of the consideration to be paid for the right of way, so far as the fence or right to private crossing were or shall

be settled or paid for; provided further, that any owner of lands abutting on the line of the lands of any railroad company who has or may become legally bound in any manner to build or repair the fence or fences dividing his lands from the lands of the company, and who has neglected or refused, or shall neglect or refuse to build or repair said fence or fences within the time in which he is or shall be bound to build or repair the same, then it shall be lawful for said company to build or repair said fence or fences, and present an itemized account of the cost of labor and materials expended in constructing or repairing said fence to the person bound to build or repair the same, for payment, and if the same is not settled or paid within thirty days thereafter, then the company may recover from said person the reasonable cost of constructing and furnishing materials for said fence before any court having jurisdiction thereof.

Company may construct, etc., in default of land-owner.

SEC. 2. Section one of said act, passed April 26th, 1871, amending section one of an act entitled "An act providing for inclosing railroads by fences and cattle-guards," passed March 25th, 1859, is hereby repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage.

Passed April 18, 1874.

AN ACT

To prevent dangerous interference with Steam Boilers.

[O. L., Vol. 71, p. 115.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person shall purposely and maliciously put or cause to be put, or aid in putting any soap, alkali, or other material which will tend to interfere with or render unusually dangerous the generating of steam, into any steam boiler, tank, well, cistern, pipe, hose, or other receptacle, where such soap, alkali or material, or any part thereof, shall be liable to be drawn or pumped into any steam boiler or generator, with intent to injure or damage any person or body corporate, or to delay or retard the running of any engine, locomotive or machinery, every such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the penitentiary and kept at hard labor not less than one nor more than ten years, at the discretion of the court, and shall moreover be liable to any person or body corporate injured thereby in double the amount of damages sustained.

Penalty for putting soap, alkali, etc., into boilers, wells, etc.

SEC. 2. This act shall take effect on its passage.

Passed April 20, 1874.

AN ACT

To amend section thirteen of the act of May 1, 1852, entitled "An act to provide for the creation and regulation of Incorporated Companies in the State of Ohio," as amended April 25, 1873. (O. L., Vol. 70, page 161.)

[O. L., Vol. 71, p. 146.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section thirteen of the above mentioned act be amended so as to read as follows:

Prices of transportation of passengers and freight on railroads.

Section 13. Such corporation, or any corporation operating a railroad in whole or in part in this state, may demand and receive for the transportation of passengers on said road, not exceeding three cents per mile for a distance of more than eight miles: Provided, the fare shall always be made that multiple of five nearest reached by multiplying the rate by the distance; and for the transportation of property, not exceeding five cents per ton per mile when the same is transported a distance of thirty miles or more; and in case the same is transported a less distance than thirty miles, such reasonable rate as may be from time to time fixed by said corporation or prescribed by law; provided, that for the transportation of coal, iron ore, undressed stone or lumber, not more than five cents per ton per mile shall be charged for any distance whatever; and every such corporation, its officers, employes or agents who shall violate, or permit to be violated, the provisions of this act, or any other corporation, its officers, employes or agents who shall demand or receive a greater sum of money for the transportation of passengers or property on or over their railroad than the sum allowed by law, shall pay to the party aggrieved for every such overcharge a sum equal to double the amount of the overcharge; but in no case shall the amount to be paid be less than one hundred and fifty dollars; provided, that the provisions of this act shall not apply to any railroad not exceeding twelve miles in length, and not operated by corporations operating another railroad.

Prices for coal, iron ore, stone and lumber.

Penalty for violation.

Proviso as to railroads of twelve miles or less.

SEC. 2. That said section thirteen, as amended, is hereby repealed, and this act shall be in force from and after its passage.

Passed April 20, 1874.

H. P. Shinn

THE SEVERAL ACTS

CONFERRING AUTHORITY ON THE

COMMISSIONER OF RAILROADS AND TELEGRAPHS

OF OHIO, . *just until*

DEFINING THE DUTIES OF THE OFFICE, ETC.

ALSO, THE

LAWS RELATING TO RAILROADS

PASSED AT THE

SESSION ENDING APRIL 12, 1876.

COLUMBUS:
NEVINS & MYERS, STATE PRINTERS.
1876.

THE SEVERAL ACTS CONFERRING AUTHORITY ON THE COMMISSIONER, DEFINING DUTIES OF THE OFFICE, ETC.

AN ACT to provide for the appointment of a Commissioner of Railroads and Telegraphs, and to prescribe his duties.

[1867, April 5, p. 111, Vol. 64.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be appointed by the governor, by and with the advice and consent of the senate, within fifteen days after the passage of this act, a person to be styled the Commissioner of Railroads and Telegraphs, who shall hold his office for the period of two years, and until his successor is appointed and qualified. The person who is so appointed shall be an elector of this state, and shall have no official connection with any railroad, nor during the term of his office own or be interested in the stock, bonds, or other property, or in the employ of any railroad. In case of vacancy by death, resignation, removal from the state, or otherwise, the governor shall fill the vacancy and report the name of such appointee to the senate, if in session, and if not, within ten days after the commencement of the next session, who, by the advice and consent of the senate, shall hold his office for the full term of two years, as hereinbefore provided, from the day of his appointment; provided, that if the governor shall at any time become satisfied that the commissioner is inefficient or derelict in the discharge of the duties of his office, or in any way uses the advantage of his position for personal ends, to the disadvantage of the public interest, he is hereby authorized and required, by and with the advice and consent of the senate, if it be in session, to remove the said commissioner from office; and if the senate be not in session, to suspend him from the discharge of the duties of said office, temporarily filling the vacancy as provided for in this section, and reporting the facts to the senate when in session.

SEC. 2. Before entering upon the discharge of the duties of his office, said commissioner shall take an oath or affirmation to support the constitution of the United States and of this state, and to faithfully and honestly discharge his duties as such commissioner, and that he is not an officer, stockholder, or employé of any railroad, or in any way interested therein; or stockholder, officer, or employé of any express or freight company doing business on any of the railroads of this state, or interested therein; or a stockholder, officer or employé of any telegraph company operating in this state.

[Original section 3, amended April 8, 1871 (63 O. L., 55), as follows:]

SEC. 3. He shall receive for his services three thousand dollars per annum, and be furnished with an office, office furniture and stationery, at the expense of the state. He shall have power to employ a clerk to perform such duties as may be assigned by him, to be paid out of the state treasury, at the rate of twelve hundred dollars per annum.

SEC. 4. Said railroad commissioner shall have the right of passing, in the performance of his duties, on all the railroads in this state, and upon all the trains, and any part thereof, free of charge.

SEC. 5. It shall be the duty of such commissioner, whenever it shall come to his knowlege, either upon complaint or otherwise, or he shall have reason to believe that any of the officers, employés or agents of any railroad in this state are violating any of the laws of this state relating to railroads, to examine into all such violations; and if such complaints shall be found true, he shall report the same to the governor with his annual report, to be laid before the general assembly. In making such examination, he shall have power to issue subpoëna for witnesses and administer oaths. He shall prosecute, or cause to be prosecuted, all violations of any of the laws relating to railroads.

SEC. 6. Whenever the commissioner shall have reasonable grounds to believe, either on complaint or otherwise, that any of the tracks, bridges, or other structures of any railroad in this state are in a condition which renders any of them dangerous, or unfit for the transportation of passengers with reasonable safety, it shall be his duty to inspect and examine the same; and if, on such examination, in his opinion any of such tracks, bridges, or other structures or works are unfit for the transportation of passengers with reasonable safety, it shall be his duty to give to the superintendent, or other executive officer of the company working or operating said defective track, bridge, or other structure, notice of the condition thereof, and of the repairs necessary to place the same in a reasonably safe condition; and may also order and direct the rate of speed of passing trains over such dangerous or defective track, bridge or other structure, until the said repairs are made, and the time within which such repairs shall be made by the company; and if any superintendent or other executive officer aforesaid, receiving such notice and order, shall willfully neglect, for the period of two days after receiving such notice and order, to direct the proper subordinate officers of the company to run the passenger trains over such defective track, bridge, or other structure, at the speed so prescribed by the commissioner; or if any engineer, conductor or other employé of such company shall knowingly disobey such order, every such superintendent, officer, conductor or employé shall be deemed guilty of a misdemeanor, and on conviction thereof upon indictment shall be fined in any sum not exceeding five hundred dollars, or be imprisoned in the jail of the county in which said indictment may be found for a period not exceeding one year, or both, at the discretion of the court. And the commissioner shall have power to wholly stop the running of passenger trains over such defective track, bridge, or other structure. If said company shall neglect, or without reasonable cause fail to make said repair within the time prescribed by said commissioner, such company, for each and every day that ensues thereafter, and until said repairs are made, shall forfeit and pay to the state the sum of one hundred dollars.

SEC. 7. All prosecutions against railroad companies, or any officer or employé thereof, for forfeitures, penalties or fines for the violation of any of the laws relating to said roads or telegraphs, shall be by action in the name of the state of Ohio, and all moneys arising from such suits shall be paid into the state treasury by the prosecuting attorney or commissioner collecting and receiving the same; and prosecuting attorneys shall be entitled to receive from the state treasury, for their services under the provisions of this act, ten per cent. on all moneys by them collected and paid over.

SEC. 8. It shall be the duty of the prosecuting attorneys of the several counties within, into or through which any railroad is located and worked, upon the application of any person claiming to be aggrieved by violation of

the laws of the state, by the superintendents or other executive officer or employé of such road, whereby penalties have been incurred, upon a careful investigation, and being satisfied that said penalties have been incurred, or upon being instructed and required by the commissioner, to sue for and recover such penalties in the name and for the use of the state of Ohio; provided, that such prosecuting attorney shall not bring any action at the instance of any private party, unless such party shall first become liable for costs, and in case the state fails in such suit, the cost thereof shall be adjudged against such party.

[Original section 9, amended May 13, 1868. 65 O. L., 183.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio, That section nine of the above recited act be so amended as to read as follows:*

Section 9. It is hereby made the duty of the president or other officer in charge of each and every railroad company having a line of railroad in this State to make an annual report to the commissioner for the year ending on the 30th day of June preceding; which report shall be verified by the oath or affirmation of such president or other officer in charge, and be filed in the office of the commissioner by the 1st day of September in each year, and shall state—

AS TO STOCK AND DEBTS.

- 1st. The amount of capital stock paid in.
- 2d. The amount of capital stock unpaid.
- 3d. The amount of funded debt.
- 4th. The amount of floating debt.

AS TO COST OF ROAD AND EQUIPMENT.

- 5th. Cost of construction.
 - 6th. Cost of right of way.
 - 7th. Cost of equipment.
 - 8th. All other items embraced in cost of road and equipment not embraced in three preceding questions.
- Total cost of road and equipment to this date.

AS TO CHARACTERISTICS OF THE ROAD, ETC.

- 9th. Length of single main track laid with iron.
 - 10th. Length of double main track.
 - 11th. Length of branches, stating whether they have single or double track.
 - 12th. Aggregate length of sidings and other tracks not above enumerated.
- Total length of iron embraced in preceding heads.
- 13th. The maximum grade, with its length in main road, and also in branches.
 - 14th. The shortest radius of curvature, with length of curve in main road, and also in branches.
 - 15th. Total degrees of curvature in main road, and also in branches.
 - 16th. Total length of straight line in main road, and also in branches.
 - 17th. Number of wooden bridges, and aggregate length in feet.
 - 18th. Number of iron bridges, and aggregate length in feet.
 - 19th. Number of stone bridges, and aggregate length in feet.

- 20th. Number of wooden trestles, and aggregate length in feet.
- 21st. The greatest age of wooden bridges.
- 22d. The average age of wooden bridges.
- 23d. The greatest age of wooden trestles.
- 24th. The number and kind of new bridges built during the year, and length in feet.
- 25th. The length of road unfenced on either side, and the reason therefor.
- 26th. Number of engines.
- 27th. Number of passenger cars.
- 28th. Number of express and baggage cars.
- 29th. Number of freight cars.
- 30th. Number of other cars.
- 31st. The highest rate of speed allowed by express passenger trains when in motion.
- 32d. The highest rate of speed allowed by mail and accommodation trains when in motion.
- 33d. The highest rate of speed allowed by freight trains when in motion.
- 34th. The rate of fare for passengers charged for the respective classes per mile.
- 35th. The highest rate per ton per mile charged for the transportation of the various classes of freight, through and local.

DOINGS OF THE YEAR.

- 36th. The length of new iron laid during the year.
- 37th. The length of re-rolled iron laid during the year.
- 38th. The number of miles run by passenger trains.
- 39th. The number of miles run by freight trains.
- 40th. The number of passengers (all classes) carried in cars.
- 41st. The number of tons of through freight carried.
- 42d. The number of tons of local freight carried.

EARNINGS FOR THE YEAR.

- 43d. From transportation of passengers.
- 44th. From transportation of freight.
- 45th. From mail and express.
- 46th. From all other sources.
- Total earnings for the year.

EXPENDITURES FOR THE YEAR.

- 47th. For construction and new equipment.
- 48th. For maintenance of way and structures.
- 49th. For maintaining and operating motive power and cars.
- 50th. For transportation expenses, including those of stations and trains.
- 51st. For dividends, rate *per cent*, and amount.
- 52d. All other expenditures, either for management of road, maintenance of way, motive power and cars, and for other purposes.
- Total expenditures during the year.
- 58th. The number and kind of farm animals killed, and amount of damages paid therefor.
- 59th. A statement of all casualties resulting in injuries to persons, and the extent and causes thereof, and such other and further informa-

tion as may be required by the commissioner; but if any company shall be unable to furnish the required information, the reasons thereof shall be given. The commissioner shall prepare and furnish to each railroad company, or to each organization having one or more railroads in charge, and to each telegraph company or chief manager thereof in this state, or having lines in this state, blank forms for making the reports required by this act, which blanks may be so prepared by the commissioner as to obtain the information required by the foregoing inquiries more in detail, or omit such of a historical or permanent character as may have been given in previous reports.

[Original sections 10 and 11, amended April 25, 1873 (70 O. L., 158), as follows:]

SECTION 10. Every president or other officer in charge of any railroad now doing business or in the course of construction in this state, or of any company organized in this state as provided by section seven of the act entitled "An act regulating railroad companies," passed February 11, 1848, who shall neglect or refuse to make and furnish such report at the time prescribed in section nine of this act, as amended May 13, 1868, or as required by the commissioner, shall forfeit and pay a sum not exceeding one thousand dollars, to be recovered in the name and for the use of the state of Ohio; and he shall be subject to a like penalty for every period of thirty days after the time he shall neglect or refuse to make such report.

SEC. 11. It shall be the duty of the president or chief officer of any telegraph line or company doing business in this state, or in process of construction, to make an annual report of its business to the Commissioner of Railroads and Telegraphs, in such form as such commissioner may direct, for the year ending on the 30th day of June preceding; which report shall be verified by the oath or affirmation of such president or officer in charge, and shall be filed in the office of the commissioner by the first day of September in each year. For a refusal or neglect by such officer to make and furnish such report at the time prescribed in this act, the company he represents shall forfeit and pay a sum not exceeding five hundred dollars, to be recovered in the name and for the use of the state of Ohio; and said company shall be subject to a like penalty for every period of thirty days after the time its chief officer shall neglect or refuse to make and file such report.

[Original section 12, amended May 13, 1868. 65 O. L., 185. See also section 9.]

SEC. 2. Section twelve of said act shall be so amended as to read as follows:

Section 12. It shall be the duty of the commissioner aforesaid to make to the governor, on or before the first day of January of each year, a full and accurate report of the condition and affairs of all the railroad and telegraph companies having lines in this state; also of all accidents resulting in injuries to persons and the roads upon which they occurred, and the circumstances and cause thereof, and such other information, suggestions and recommendations as he may deem of advantage to the state. The governor shall cause 2,000 copies of said report to be printed by the printer having the contract for this branch of the public printing, and lay the same before the general assembly in printed form; 600 copies of said report to be bound in muslin and suitably lettered on the back; 2 copies for the use of each member of the general assembly, and 200

copies for the commissioner, the remainder to be covered in brochure covers and distributed as follows: To the general assembly, 1,000 copies; to the commissioner, 300 copies; and the balance to be deposited in the state library for the use and distribution by the librarian, according to law or the resolution of the general assembly.

SEC. 3. The appointment of the clerk of the commissioner shall be evidenced by a certificate of the commissioner, and shall continue during the pleasure of the commissioner; and in the absence or disability of the commissioner, the clerk shall have power to issue subpoena for witnesses and administer oaths in all cases pertaining to the duties of the office.

SEC. 4. Said original sections nine and twelve, amended by this act, are hereby repealed, and this act shall take effect and be in force from and after its passage.

AN ACT further prescribing the duties of Secretaries of Railroad and Telegraph Companies in the State of Ohio. [1873, April 24, p. 155, Vol. 70.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be and is hereby made the duty of the secretary of each and every railroad company, and of each and every telegraph company now doing business, or whose line is in process of construction, or which may be hereafter organized within the state of Ohio, within thirty days from and after the passage of this act, or within thirty days after the election of the directors of said company, as provided in section nine of an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852 (S. and C., 271), to make out and forward to the Commissioner of Railroads and Telegraphs a statement of the officers and directors of their respective companies, giving the place of residence and post-office address of each; and thereafter, if any change shall occur in the organization of the officers or board of directors of said company, to notify the Commissioner of Railroads and Telegraphs of the fact of such change, and the residence and post-office address of each of said officers and directors.

SEC. 2. That for a failure to comply with the provisions of this act, any company so neglecting for thirty days after the time herein provided shall be subject to the same penalties as attach for neglecting or refusing to make the required annual report to the Commissioner of Railroads and Telegraphs.

SEC. 3. This act shall take effect and be in force from and after its passage.

AN ACT to make more efficient the reports of Railway and Telegraph Companies. [1873, May 5, p. 276, Vol. 70.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever the returns of any corporation required to report to the Commissioner of Railroads and Telegraphs are incomplete, defective, or probably erroneous, the commissioner shall notify such corporation thereof, and require it to amend said return within fifteen days. Each corporation shall make its return strictly according to the forms provided. If the corporation find it impracticable to return all the items in detail as

required, it shall state the reasons why such details can not be given; but no corporation shall be allowed to plead in excuse for not giving such details that it does not keep its accounts in such a manner as to enable it to do so: Provided, that if the form for said returns and report furnished by the commissioner makes necessary any change or alteration in the present method or form of keeping their accounts, he shall give to said corporation at least thirty days' notice thereof prior to the commencement of the year for which the said changes and additions may be necessary, in order to make the full returns required.

SEC. 2. The commissioner shall have power, personally, or by agent under his authority, to examine any railroad officer, agent, or employé, under oath, relative to his stock or pecuniary interest, direct or indirect, in any freight, express, telegraph, sleeping-car, construction, rolling stock, or other company doing business upon or in connection with the road of which he is such employé; also, to examine into the cause of each accident resulting in loss of life to person or persons; and it is hereby made the duty of the superintendent of each railway in the state to notify said commissioner of such accident, by telegraph, immediately upon its occurrence.

SEC. 3. The several railway corporations operating railways in the state shall at all times, on demand, furnish said commissioner any information required by him concerning the condition, management and operations of the railways under their direction and control respectively, and particularly with copies of all leases, contracts and agreements for transportation with express companies or otherwise to which they are parties, and also with the rates for transporting freight and passengers upon their railways, and upon those with which their roads respectively have connection in business. A refusal or neglect by any company to comply with the provisions of this act shall subject it to the same penalties as attach for failure to make annual report to said commissioner. The commissioner, in the discharge of his duties under the provisions of this act, shall have power to subpoena witnesses and administer oaths, and pay the necessary expenses incurred by draft from the contingent fund of his office. And any railroad officer, agent or employé who shall refuse to answer, under oath, any question or questions to be asked by the commissioner or his agents, by the terms of section two of this act, shall, upon conviction thereof, for the first offense be fined in any sum not less than fifty nor more than five hundred dollars. For each succeeding offense he shall be liable to such fine, and in addition thereto shall be imprisoned in the county jail not less than five nor more than thirty days; and each refusal to answer the same question or questions shall constitute a separate and distinct offense. The property of the railroad company of which the person so convicted is an officer, agent or employé, shall be liable to be taken in execution to satisfy the fines and costs in such cases. All prosecutions made under the provisions of this act shall be by indictment in the court of common pleas in the county in which such offense is committed; and it is hereby made the duty of the prosecuting attorney of such county, upon complaint of the commissioner, as part of his official duties, to attend to the prosecution of all offenses committed under the provisions of this act.

SEC. 4. This act shall take effect and be in force from and after its passage.

LAWS RELATING TO RAILROADS PASSED AT SESSION ENDING APRIL 12, 1876.

AN ACT to amend Sections 2, 4 and 5 of the act entitled an act to authorize the Increase of Capital Stock of Railroad Companies, passed May 5, 1873.

[73 O. L., 25.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio, That* sections two, four and five of said act be so amended as to read as follows:

Section 2. Before any stock shall be issued under this act, a majority of the directors of such railroad company shall call a meeting of the stockholders thereof, designating distinctly the time, place and purpose of said meeting, and amount of stock required; which meeting shall be held at the principal business office of said company in this state. Notice of said meeting shall be given for at least thirty days previous, by continued publication in at least two newspapers published and of general circulation within the state; also by a like notice, mailed thirty days previous to the time named for said meeting, to each stockholder whose residence is known. If at said meeting thus authorized the consent of the stockholders of a majority of the stock upon which the holders thereof would be entitled to vote at an election of directors of the company shall be given, the authorized stock of such company may be increased to such amount as may be decided necessary or requisite for the purposes named in section one of this act.

Sec. 4. Within ten days after such meeting, the president and secretary of said company shall make out an abstract, stating the whole amount of preëxisting capital stock, the amount authorized, the number of shares of stock upon which have been paid all the installments called for by the board of directors, and the vote at said meeting, adding a certificate that the provisions of this act have been fully complied with; to which abstract and statement they shall make affidavit, and file the same in the office of the secretary of state, who shall cause the same to be made a matter of record.

Sec. 5. That any railroad company heretofore, or that may hereafter be incorporated under the laws of this state, or the purchasers of any railroad within this state, which has been or hereafter may be sold pursuant to judicial order or decree, or the assigns of such persons organized and acting as a company, may, for the purpose of completing its line of road, or extending the same, or laying a double or additional track, in whole or in part, or constructing authorized branch roads, or increasing its machinery, rolling stock, depots, shops, or other improvements, or paying its unfunded debts, or redeeming its bonds, issue its bonds, convertible or otherwise, bearing any rate of interest not exceeding eight per centum per annum, to an amount not exceeding two-thirds of its authorized capital stock, and sell the same at such times and places within or without the state, and at such rates as the directors of said company may deem for its best interests; and such company may secure such bonds by mortgage on its property, or otherwise, if authorized by the vote in person, or by proxy, of holders of a majority of the stock upon which have been paid all the installments called for by the board of directors at any regular meeting, or at any special meeting, after thirty days' notice.

SEC. 2. That sections two, four and five of said above mentioned act are hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

Passed March 14, 1876.

AN ACT to amend section 13 of the act of May 1, 1852, entitled "An act to provide for the creation and regulation of incorporated companies in the state of Ohio," as amended March 30, 1875 (72 O. L., 143), and to repeal an act therein named.

[73 O. L., 102.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio, That* section thirteen of the above mentioned act be amended so as to read as follows:

Section 13. Such corporation, or any corporation operating a railroad, in whole or in part, in this state, may demand and receive for the transportation of passengers on said road not exceeding three cents per mile for a distance of more than eight miles: Provided, the fare shall always be made that multiple of five nearest reached by multiplying the rate by the distance, and for transportation of property not exceeding five cents per ton per mile, when the same is transported a distance of thirty miles or more; and in case the quantity transported is less than one ton in weight, or any quantity is transported a less distance than thirty miles, such reasonable rate as may be from time to time fixed by said corporation or prescribed by law; provided further, that until a tariff of specific rates be established by law, it shall be lawful, in the transportation of property of such bulk that a quantity equal to the tonnage capacity of the car cannot be carried in it, to contract for space in the car sufficient to secure the safe transportation of such property, at a rate which shall not exceed five cents per ton per mile if such car were loaded to its tonnage capacity; provided further, that for the transportation of coal, pig iron, limestone, iron ore, undressed stone or lumber, not more than five cents per ton per mile shall be charged for any distance of ten miles or more, and in case the same be transported a less distance than ten miles, such reasonable rates as may from time to time be fixed by said corporation or prescribed by law, and such railroad may charge on such freight a reasonable rate for loading and unloading, when the same is in fact done by such corporation; and every such corporation, its officers, employes or agents, who shall violate, or permit to be violated, the provisions of this act, or any corporation, its officers, employes or agents, who shall demand or receive a greater sum of money for the transportation of passengers or property on or over their railroad than the sum allowed by law, shall pay to the party aggrieved for every such overcharge a sum equal to double the amount of the overcharge, but in no case shall the amount to be paid be less than one hundred and fifty dollars to any bona fide claimant using said road in due course of his business; provided further, that this act shall apply to all railroads now in operation in this state, organized under the provisions of the act entitled "an act regulating railroad companies," passed February 11, 1848, and all other railroad companies now in operation, chartered by special acts of the general assembly since the passage of said act, which by the acts of incorporation made such railroad companies subject to the restrictions of said act of February 11, 1848, and to all railroads, and railroad companies organized under any of the laws of Ohio, except that the provisions of the first section of this act shall not apply to any railroad not exceeding twelve miles in length, nor to any railroad in course of construction, and whose gross earnings are less than four thousand dollars per mile per annum, where such railroads are not owned by or operated by corporations operating another railroad; provided further, that any such railroad shall not remain in such incomplete state for a greater period than five years from and after the passage of this act.

SEC. 2. That the said act of March 30, 1875, be and the same is hereby repealed, and the repeal of said act shall affect and annul penalties accruing or accrued under said act or the act of April 20, 1874, repealed thereby, or the act of April 25, 1873: Provided, that no railroad company or corporation shall be released from its liability in actions now pending and causes of action heretofore accrued to any person from whom such railroad company or corporation, by its officers or agents, shall have demanded or received fare or freight, at a rate above that allowed by law; provided, such person paid overcharge while using such railroad in the due course of his or her business, and not for the purpose or with the view of obtaining the penalty provided by law for such overcharges, and such person may maintain his or her action in any court of competent jurisdiction for the recovery of such penalty.

SEC. 3. This act shall take effect and be in force from and after its passage.

Passed April 6, 1876.

AN ACT relative to changing of proposed lines and termini of railroads.

[73 O. L., 115.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any railroad company organized under any general law of this state may, by a resolution adopted by a majority of the board of directors, at a meeting thereof, duly called for the purpose, with the written consent of three-fourths in interest of the stockholders, change the line or any part thereof, and either of the proposed termini of its proposed railroad; provided, no change shall be made which shall involve the abandonment of any part of said railroad, either partly or completely constructed; and provided further, that any subscription of stock made upon the faith of the location of such railroad or part thereof, upon any line abandoned by any such change, shall be canceled at the written request of the subscriber not having consented as aforesaid, filed with the secretary or other chief [officer] of such company.

SEC. 2. When any such change shall be made as aforesaid, the same shall be described in such resolution, a duly authenticated copy of which, under the seal of the company, shall be filed with the secretary of state, and by him recorded with proper reference on the record of the original certificate of such company; and when such resolution shall be so filed, such change in the proposed line or terminus, or both, of such proposed railroad shall be considered as made, and shall be valid and binding to all intents and purposes the same as if such changed line had been the line originally described in such certificate.

SEC. 3. When any such company shall have issued its mortgage bonds for the construction of such railroad, the record of the mortgage securing the same, in each county through which the changed line of such railroad shall pass, shall be as effectual to create a lien upon the changed line of such railroad and upon all the property of such company as if such mortgage contained a complete description of such changed line and of such property.

SEC. 4. This act shall take effect and be in force from and after its passage.

Passed April 7, 1876.

AN ACT authorizing corporations to issue either registered or coupon bonds, and exchange the one for the other.

[73 O. L., 123.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any railroad company, or other corporation, which is now or shall hereafter be authorized by any law of this state to issue its bonds, may, at its discretion, issue either registered bonds, having the conditions as to transfer and payment of the principal and interest usual in such bonds, or coupon bonds, or both, in such proportion as it shall deem best; and any such company or corporation, which has heretofore issued, or shall hereafter issue, any coupon bonds, may, at the request of the lawful holder thereof, change any or all such coupon bonds into registered bonds, either by taking up and canceling the coupon bonds and issuing registered bonds in lieu thereof, or by writing or printing upon such coupon bonds a proper certificate, to the satisfaction of the holder desiring the same, changing such bonds into registered bonds; and may, in like manner, provide for changing registered into coupon bonds; provided, that the amount of the indebtedness of such company or corporation, and its liability, upon such of its original bonds first issued as are not so changed or exchanged, and upon such of them as are so changed or exchanged, together with the terms and conditions thereof as to the payment of principal and interest, shall in no wise be altered or affected by any such change or exchange of bonds.

SEC. 2. That all bonds issued in lieu of others, or changed as above provided, and the legal holder thereof, shall be entitled, in every respect, to all the security, liens, protection and rights, under or arising from any mortgage, deed of trust, or other security, given by, or in any way accruing to such company or corporation for the security or protection of its bonds first issued and so changed or exchanged as above provided, in the same manner and to the same intent and effect as if such new or changed bonds were specifically named and described, or otherwise duly provided for, in such mortgage, deed of trust, or other security, the validity and lien of which as to any bonds not so changed or exchanged shall remain unimpaired and binding in all respects.

SEC. 3. This act shall take effect from and after its passage.

Passed April 7, 1876.

AN ACT to prohibit and punish persons or corporations for interfering in the construction or laying of railroad track.

[73 O. L., 160.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person or corporation owning or operating any railroad within this state to willfully and necessarily [unnecessarily] interfere or obstruct any company building or constructing a railroad in laying the track of such railroad over and across any other railroad, the company constructing such railroad having fully complied with the law and obtained the legal right to lay its track over and across any other railroad; and it shall also be unlawful to obstruct the free operation of said road after it is constructed.

SEC. 2. Any person or corporation violating the provisions of the first section of this act shall forfeit and pay as penalty therefor the sum of one thousand dollars per day for each day said company shall be so prevented from laying their said track, to be recovered by action of debt in

the name of the state of Ohio, one half thereof to go to the company so interfered with, and the other half to the county in which said interference occurred, to be placed to the credit of the ordinary county fund, and the person or corporation violating said first section shall also be liable to civil damages.

SEC. 3. This act shall take effect and be in force from and after its passage.

Passed April —, 1876.

Section 3 of an act supplementary to the act "to authorize stock-yard companies," passed April 18th, 1870. (Vol. 67 O. L., page 72.)

[73 O. L., 162.]

Such company shall have power to lease or purchase and operate such portion of any railway leading to or connected with its stock-yards as may be necessary for the convenient dispatch of its business: Provided, that the number of miles so leased or purchased shall not exceed thirty, and such lease or purchase shall not be made without the consent of the holders of a majority of the stock in such company, and in the company leasing or selling such railway.

SEC. 4. This act shall take effect and be in force from and after its passage.

Passed April 8, 1876.

AN ACT for the protection of passengers on railroads.

[73 O. L., 166.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the conductor of all trains carrying passengers, within this state, be and they are hereby invested with all powers, duties and responsibilities of police officers, while on duty on their respective trains.

SEC. 2. When any passengers shall be guilty of disorderly conduct, or use any obscene language, or play any game of cards or chance for money or any other thing of value upon any passenger train, the conductor of such train is hereby authorized and required to stop his train at any place where such offense has been committed, and eject such passenger from the train, using only such force as may be necessary to accomplish such removal, and such conductor may command the assistance of the employes of the railroad company and of the passengers on such train to assist in such removal; but before doing so shall tender to such passenger such proportion of the fare he paid as the distance he then is from the place he has paid his fare bears to the whole distance for which he has paid his fare.

SEC. 3. When any passenger shall be guilty of any crime or misdemeanor upon any passenger train, the conductor of such train may arrest such passenger and take him before any magistrate having cognizance of such crime or misdemeanor in any county in this state in which such train runs, and file an affidavit before such magistrate, charging him with such crime or misdemeanor: Provided, that in no case shall the liability of any railroad company for damages caused by the conduct of its conductor be affected by the provisions of this act.

SEC. 4. That if any conductor having charge of a passenger train within this state shall willfully neglect his duty as herein required, or fail to use all the means in his power to carry out the requirements of this act, he shall be deemed guilty of negligence of official duty, and on con-

viction thereof, before any court having competent jurisdiction, shall be fined not less than five dollars nor more than twenty-five dollars.

SEC. 5. This act shall be in force from and after its passage.

Passed April 11, 1876.

AN ACT to regulate the sale of railroad scrap iron metals.

[73 O. L., 227]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That no officer, agent, or employé of any railroad company operating a railroad in this state, shall sell or dispose of worn or scrap metal, or of any iron, brass, or other metal owned by the company, except the superintendent, general managing agent, or the receiver of such company; and all such sales and barter of such scraps or other metals, owned by a railroad company, made by any other officer, agent, or employé than such superintendent, general managing agent or receiver, shall be null and void; and no such superintendent, general managing agent or receiver of any railroad shall sell or dispose of any such scrap or other metals in quantities less than one ton, nor without delivering to the purchaser a bill of sale thereof, a copy of which shall be retained and filed in the office of such superintendent, manager or receiver.

SEC. 2. That if any superintendent, general managing agent or receiver of any railroad company shall sell or dispose of any railroad scrap metal in quantities less than one ton, or shall sell or dispose of such metal in any quantity without delivering a bill of sale to the purchaser, the railroad company which such superintendent, manager or receiver represents, shall not thereafter be entitled to the benefit of the next three succeeding sections of this act.

SEC. 3. That the person, company or firm to whom is offered for sale, pledge or trade any worn or used links, pins, journal bearings, or other worn or used and detached appendages of railroad equipment, or any scrap metal of iron, brass or steel appertaining to such equipment, shall, before purchasing or dealing in the same, ascertain whether the ownership thereof is lawfully derived, by bill of sale or otherwise, from a railroad company, or from the superintendent, managing agent or receiver of a railroad company; and in any action in which the right or title to such article of metal is drawn in question, the person, company or firm aforesaid dealing therein, or his or its assignee, party to such action, shall be bound to establish and prove, *prima facie*, the title and ownership derived as aforesaid.

SEC. 4. That in the action mentioned in the preceding section, if it appears, *prima facie*, from the evidence on the trial that any of the articles or metals in controversy were stolen, or unlawfully obtained, and mixed or confused with other scrap metal, it shall be deemed a confusion of goods, unless the party claiming against the title of the railroad company shall establish, *prima facie*, a lawful title to the residue from or through a railroad company.

SEC. 5. That any railroad company, by its proper officer or agent, or the receiver thereof, may claim to be the general owner of, and may replevy any of the railroad metals or articles herein above mentioned, and any metals with which they may have been confused as aforesaid, wherever found in the possession of any person, firm or company, other than a railroad company or its receiver, whenever there is good reason to believe that such metals or articles have been stolen or unlawfully taken

from a railroad company or its receiver; and, instead of the usual averment as to ownership in the affidavit for a writ of replevin, it shall be sufficient for the officer or agent of such company, or the receiver, to aver that he believes such railroad metals or articles to have been unlawfully taken from such company or some other railroad company; and the person, firm or company claiming in said action, or any other action, the right or title to any such metals or articles, shall be required to establish and prove, *prima facie*, a right or title to said railroad metals or articles, lawfully derived, as in the preceding section of this act provided; and in the absence of such proof, the railroad company or receiver claiming such railroad metals or articles shall be held and considered to be the general owner thereof: Provided, that any other railroad company or receiver, upon showing that any part of such railroad metals or articles was unlawfully taken from it, shall be entitled to such part, upon payment of a proper share of the cost and expenses of the replevy thereof; and provided further, that any railroad company, or its receiver, who shall replevy any property under the provisions of this section, without good and reasonable cause to believe that the same has been unlawfully taken from some railroad company, or its receiver, shall be liable to the party entitled thereto in any sum not exceeding double the amount of the value of the property so replevied, in addition to such damages as said party may have lawfully sustained thereby.

SEC. 6. This act shall take effect from and after its passage.

Passed April 12, 1876.

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OF

POLICE LAW OF RAILROADS

OF

PUERTO RICO,

AND

REGULATIONS FOR ITS APPLICATION,

PROMULGATED ON THE 17TH OF FEBRUARY, 1888.

WAR DEPARTMENT,
1899.

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POLICE LAW OF RAILROADS OF PUERTO RICO.

[Promulgated in the Island on the 17th of February, 1888.]

TITLE I.

REGULATIONS APPLICABLE TO PUERTO RICO FOR THE PRESERVATION OF PUBLIC ROADS.

ARTICLE 1. The Laws and Regulations of the Administration as to highways are applicable to—

1. The preservation of trenches, drains, walls, buildings, and other kinds of works.

2. The rights (servitudes) for the preservation of the roads charged on the adjoining cultivated lands.

3. The servitudes on these same lands as to laying out lines, constructions of all kinds, opening of ditches, free course of water, planting, pruning of trees, working of mines, lands, places for dumping refuse ore, quarries, and any other whatsoever. The zone to which these rights extend is 20 meters on each side of the railroad.

4. The prohibitions the object of which is to prevent all kinds of damage to the road.

5. Prohibiting the placing of hanging or projecting objects which may inconvenience or endanger persons or the road.

6. Prohibiting the establishment of deposits of materials, stones, earth, manure, products or any other thing which may impede free transit.

TITLE II.

REGULATIONS FOR THE PRESERVATION OF ROADS WHICH REFER ESPECIALLY TO RAILROADS.

ART. 2. Along the whole distance of the railroad neither the entry nor the grazing of cattle shall be allowed. If the railroad has to cross a highway where cattle pass, the railroad shall always cross without changing or stopping the progress of the trains, and in the manner provided for as a general rule for that crossing.

ART. 3. In the future, in a zone of 3 meters on each side of the railroad, only fencing walls shall be constructed, but no facades having openings or projections. This Regulation does not refer to buildings constructed before the promulgation of this Law, or the construction of a railroad which may be separated and maintained in the condition in which they are, but can not be rebuilt. If it

be necessary to demolish or change a building for the benefit of a railroad, the proceedings shall be according to the provisions of Article 11 of this Law.

ART. 4. Within the zone indicated in paragraph 3 of Article 1, no buildings may be constructed, covered with thatch or other combustible materials, when the railroad is operated by means of locomotives.

ART. 5. The prohibition to establish deposits of materials, earth, stones, or any thing mentioned in the sixth paragraph of Article 1, in the case of railroads, includes 5 meters on each side of the road as to objects not inflammable and 20 meters as to inflammable objects.

ART. 6. The prohibition of the preceding Article shall not be operative when—

1. The deposits of combustible material shall not be higher than the road when the latter is on an embankment.

2. The deposits of materials to be employed for fertilizing and cultivating lands, and harvests during their gathering, are temporary; but in case of fire due to the passing of locomotives the owners shall have no right to an indemnity.

ART. 7. The Governor of the Province may authorize, after hearing the Engineers of the Government and of the Companies, the deposit of uninflammable materials; but the authorization shall be revokable at his will. The Governor may not authorize deposits of inflammable materials.

ART. 8. The railroads throughout their length shall be fenced on both sides. The Secretary of the Colonies, after hearing the Company, in case there be one, shall determine for each line the manner in which and time when the fencing is to be made. When railroads cross others on the same level, gates shall be constructed which shall be closed and only opened when vehicles and cattle cross as provided for in the regulations.

TITLE III.

REGULATIONS AS TO THE PRECEDING TITLES.

ART. 9. The distances fixed in paragraph 3 of Article 1, and in Articles 3 and 5 of this law, shall be measured from the lower line of the walls of the embankment of the railroads, from the upper line of the clearing, and from the outer border of the trenches; if there be no such lines the measures shall be from a line drawn a meter and a half from the outside of the railroad. The Regulations will fix the minimum distance from the stations at which buildings may be constructed or deposits established.

ART. 10. The Secretary of the Colonies, in special cases, may reduce the distances to which the preceding article refers, after the

proper steps are taken showing the necessity or convenience of the reduction, and if no harm is done to the regularity, preservation, and free transit of the road.

ART. 11. Whenever there exist individual rights previous to the construction of a railroad, or the publication of this law, which rights can not be enforced, or if it be necessary to abolish these rights on account of the necessity or utility of the railroads, the rules established in the Law of June 13, 1884, shall be observed as to forcible condemnation by reason of public utility, and also the provisions of the Laws of Public Works and the regulations issued for their execution by the administration.

TITLE IV.

OFFENSES OF OWNERS OF CONCESSIONS AND LESSORS OF RAILROADS.

ART. 12. The owner of the concession or the lessor for the operation of a railroad who shall not comply with the general document of conditions, or the special ones of the concession, or the resolutions for the execution of these clauses in everything referring to the operation of the line, or of the telegraph, or as to navigation or use of all roads or free course of waters, shall incur a fine of 100 to 1,000 pesos.

ART. 13. The owner of the concession or the lessor shall also be obliged to make amends for the errors and damages caused within the time fixed; if he does not do so the administration shall do it, demanding from him the amount of the expenses and attaching the earnings of the stations.

ART. 14. The owners of the concession or lessors of the railroads shall be responsible to the State and to individuals for damages caused by the Managers, Directors, and other employees in the service and operation of the railroad and telegraph. If the railroad is operated by the State, the State shall be subject to the same responsibility in regard to individuals. Let it be understood that what has been stated in this Article is without prejudice to the personal responsibility which Managers, Administrators, Engineers, and all classes of employees may incur, and the discretionary authority which in cases of strikes, disturbances of public order, and conspiracies, appertains to the Government.

ART. 15. The General Government, without intervening in the appointment of the employees of the companies for the service of operating the railroad, may require the company to dismiss the employees whom it may consider dangerous to the safety of passengers and the maintenance of public order.

This dismissal shall be of a temporary character until it is ratified by the Secretary of the Colonies.

TITLE V.**TRANSGRESSIONS AND CRIMES AGAINST THE SAFETY AND PRESERVATION
OF RAILROADS.**

ART. 16. He who shall willfully destroy or damage a railroad, or place obstacles on it which shall obstruct the free transit or cause the derailling of a train, shall be punished with imprisonment. In case the train has been derailed, the imprisonment shall be in the penitentiary.

ART. 17. In case the destruction or damage is caused in time of rebellion or sedition, and the authors of the crime do not appear, the principal authors or leaders of the sedition or rebellion shall incur the penalty imposed in the previous article.

ART. 18. The provisions of the preceding articles shall be understood to be without prejudice to the civil and criminal liability which the guilty parties may incur, for crimes of homicide, wounds, and injuries of all kinds which may occur, and for those of rebellion and sedition.

ART. 19. When two or more penalties concur, the Judges and Courts shall impose the greater in its maximum degree.

ART. 20. Those who threaten the commission of a crime included in Articles 16 and 17 shall be punished with the penalties provided for in Article 512 of the Penal Code of Puerto Rico. The scale therein established shall be observed, but always imposing the maximum degree, and when the degree shall be fixed, the next highest one in its minimum degree.

ART. 21. Whosoever through ignorance, imprudence, or by reason of negligence or failure to comply with the Laws and Regulations causes in the Railroad or its dependencies some damage which may injure persons or property, shall be punished, according to Article 592 of the Penal Code of Puerto Rico, by reason of gross negligence.

ART. 22. The engineers, conductors, brakemen, station masters, telegraph operators, and other employees charged with the service and care of the line, who abandon their respective posts while on duty, shall be punished with the same penalties. But if some injury is occasioned to persons or things they shall be punished with the penalty of correctional imprisonment or minor imprisonment.

ART. 23. Those who interfere with the Railroad employees while these are doing their duty, shall be punished with the penalties which the Penal Code imposes on those who resist the agents of the Government.

ART. 24. Those who violate the Regulations included in Titles 1 and 2 of this law, the Regulations of the Administration, and the orders of the Governors as to police, safety, and operation of

Railroads, shall be punished with a fine of 6 to 60 pesos, according to the gravity and circumstances of the case and its perpetrator. If according to the Penal Code they have incurred a graver penalty, only the latter shall be imposed. In case of recurrence of the crime, the fine shall be from 12 to 120 pesos.

ART. 25. Those not paying the fine imposed upon them shall be liable to execution against the person, according to the provisions of Article 49 of the Penal Code of Puerto Rico.

ART. 26. Without prejudice to the penalties stated in the preceding articles, those who shall have infringed the Regulations of this Law, shall destroy the excavations, constructions, and covers, take away the deposits of inflammable material, or of any other kind which may have been made, and repair the damages occasioned in the Railroads. The Mayors shall fix a time for the performance, after hearing the representative of the Administration of the Railroad, or the Company itself. If within the time fixed this shall not be done, the Government shall do it at the expense of the party who shall have disobeyed. In this case the collection of the expenses shall be made in the same manner as that of the taxes.

TITLE VI.

PROCEDURE.

ART. 27. Those who shall commit crimes punishable under this law shall be tried in the ordinary way, whatever be their right to other trial.

ART. 28. Those who shall have only incurred a fine, shall be excepted from the provisions of the preceding article. For the imposition of the fines the following Rules shall be observed:

1. The right to inform belongs to the people.
2. The denunciations shall be made to the Municipal Judges in whose districts the transgression was committed.
3. The proceedings and steps in these actions shall be the ones provided for in cases of common transgressions.
4. The testimony of those in charge of the management of the road and the sworn guards shall be sufficient, except when there is evidence to the contrary.
5. Municipal Judges shall see to the fulfillment of the penalties imposed in these cases.

ART. 29. The penalties imposed on the owners of the concessions or lessors of the Railroad in the cases mentioned in Article 12 may only be imposed by the Governor after hearing the interested parties, the Chief Engineer of Public Works, and the Council of

Administration which hears disputes. The fines imposed by the Governors on the owners of concessions or lessors of Railroads shall not be remitted but by the Colonial Department, after hearing the Council of State.

Approved by the Royal Decree of this date.

BALAGUER.

MADRID, *July 13, 1888.*

REGULATIONS FOR THE APPLICATION OF THE POLICE LAW OF RAILROADS OF THE ISLAND OF PUERTO RICO.

[Promulgated on the 17th of February, 1888.]

CHAPTER I.

ARTICLE 1. The inspection and supervision of the Railroad, not only in its technical part but also in the business part, the direct intervention in the different branches of its operation, its police and good government, and everything concerning the safety of persons and the development of the material interests, belong to the Colonial Department.

ART. 2. The purely technical or professional parts shall be intrusted in each line to one or more Engineers of the Corps of Roads, Canals, and Ports; the administrative and business part to the officers elected by the Colonial Department. Of both branches two inspections shall be created independent one of the other, and both devoted to the best public service with different obligations and duties. They may also be consolidated.

ART. 3. The organization, rights, and duties of the technical and administrative inspections shall be in accordance with the provisions of the special Regulations which may have been ordered for the service of the same, or may be ordered in the future by the Colonial Department.

CHAPTER II.

THE ROAD AND ITS PRESERVATION.

ART. 4. The erection of dams, wells, and troughs at a distance of less than 20 meters on each side of the Railroad is prohibited. This distance of 20 meters shall be measured from the lower lines of the walls of the embankments, from the upper line of the clearing, and from the outer edge of the trenches when the Railroad is on a level. When these lines do not exist, the distance of 20 meters shall be counted from a line parallel to the outer rail at a meter and a half from it.

ART. 5. The farmers on the land adjoining the road shall incur the penalty provided for in Article 24 of the Law whenever by their plantings, works of cultivation, or in any other manner inclosures or the supporting walls, the braces of the culverts, the abutments of the bridges, and other works of the railroads are damaged.

ART. 6. Article 24 of the Law shall be applied equally, not only to the farmers who, in the labor of improvements of their fields

adjoining the Railroad, shall throw in the trenches earth, manure, leaves, or any other material which may prevent the free course of the waters, but also to ranchmen who in the care, grazing, or driving of their cattle, cause the same damage.

ART. 7. The owners or lessors of lands adjoining railroads shall not—

1. Obstruct the free course of waters proceeding from the Railroad by constructing ditches, roads, or bypaths, or by raising their embankments.

2. Cut trees within a zone 20 meters on each side of the Railroad without a previous license from the local authority, and examination by the technical experts.

3. Pull out roots or remove the earth in the slopes or lands adjoining the road, which may cause a breaking of the land, and directly or indirectly may obstruct or embarrass the transit. The work necessary for the repair of these damages shall be made at the expense of the offender without prejudice to the penalties which he may have incurred according to the previous articles.

ART. 8. The owners or conductors of vehicles, horses, or other cattle may not, even to enter adjoining lands or to leave them, cross the Railroads but by such points fixed for that purpose. This prohibition includes also owners or drivers of carriages, shepherds, and cattlemen who leave their horses or cattle at liberty, and graze them in the zones adjoining the Railroad.

ART. 9. No sheds, covers, stands, or movable stands shall be allowed in the zone of the Railroads, even for the sale of food, if their owners have not previously obtained the proper license from the competent authority.

ART. 10. Whosoever willfully or by omission or negligence, shall damage or destroy, with his cattle or vehicles, the works or dependencies of the Railroads, such as parapets, the copings or walls, the kilometric posts, telegraph posts, wires and insulators, signal posts, signs, time tables for the public, and the pipes and water deposit, shall incur the penalty stated in Article 21 of the Law.

This Article is also applicable to those who, without proper authority, shall cut or destroy trees planted in the zone fixed in Article 4 on each side of the Railroad.

ART. 11. Nobody, without previous authorization, within the zone of 20 meters, measured in the manner stated in Article 4, shall construct dams or works, open canals for taking or leading waters, erect buildings, walls, culverts, or other works.

This zone of 20 meters shall be measured at the stations from the inclosure or boundary which limits the land belonging to the station.

ART. 12. The petitions for construction or rebuilding in the Railroad zones shall be addressed to the Alcalde of the respective towns, stating the place, object, and details of the proposed work.

The Alcalde shall send them immediately, with his report and the observations which he may deem proper, to the Engineer in charge of the technical inspection, and he, after an examination and a hearing of the Company, shall determine the distance between the road and the work, fixing the alignment and the precautions and technical conditions, which must be complied with in the construction.

It is obligatory for the interested parties to submit the plans of the work to the Engineer in charge of the technical inspection whenever he shall deem it convenient to examine them.

ART. 13. If the Engineer and the Alcalde agree as to the proposed constructions in the zones of the road, the Alcalde shall immediately grant the license requested.

When they disagree, and the interested party objects to the conditions proposed by the Engineer, the proceedings shall pass to the Governor of the Province, who, after hearing the Executive Committee of the Provincial Deputation and the Chief of Public Works, shall determine on what he may deem best.

In case any of the parties shall be dissatisfied with his decision, the Secretary of the Colonies shall decide, finally, through the Government channel, without any further appeal.

ART. 14. After the report of the Engineer in charge of the technical inspection, the Alcalde shall order the works to be demolished which may have been constructed in the zone of the Railroad without the proper license, as well as those constructed after the granting of the license which do not fulfill the required conditions.

ART. 15. If the houses and other buildings erected in any part within the zone of easement of the Railroad, measured in the form provided for in Articles 4 to 11, and especially if the wall at the sides of the road shall threaten to fall, the Company shall immediately inform the Engineer, so that he may immediately proceed to the examination.

If this examination shows its bad condition or unsafety, the Engineer shall inform the Alcalde, stating whether the ruin is or is not imminent, and whether the building is among those the wall of which must be moved back.

ART. 16. The prohibition imposed by Article 3 of the Law to erect within 3 meters distance, any other construction but a wall or fence, also includes a prohibition to open in it doors, windows, or any other openings which may face the road.

ART. 17. The plans of those works which may cross the road or impose an easement thereon more or less directly, shall be submitted

to the approval of the Secretary of the Colonies, who shall decide, after hearing the Company, the Engineer in Chief of the Public Works, and the Governor of the Province.

ART. 18. By all possible means, the Company shall assure—

1. The maintenance in good condition of the Railroad and all its appurtenances.

2. The care and service of the gates in the level crossings.

3. The supervision and proper work of the switches in the changes and crossings of the road, and in the signals adopted, in daytime as well as at night.

4. The lighting of the stations and level crossings, which the Governor General shall order from the setting of the sun to the time of running the last train.

5. The lighting of the tunnels, which shall also be determined by the Governor, and which shall be constantly lighted while the road is in operation.

ART. 19. For the more exact fulfillment of the previous article there shall be, at all the points deemed necessary, road keepers, switch tenders, and watchmen, day and night, in sufficient number for the safety of the trains and the success of the service.

During the service of these employees, they shall never abandon their post, without express authority of the chief on whom they depend, and without having been substituted.

ART. 20. When, in the opinion of the Governor General, the means employed by the Company are insufficient to assure the safety of the service, he shall adopt, of his own accord, after hearing the Company, the measures which in each case he may deem proper and which public interests demand.

ART. 21. The technical inspection, in agreement with the company, shall organize in the most convenient manner the service and police of the gates.

ART. 22. Whenever it is necessary for the maintenance of the works, or safety of persons or merchandise, to open outer ditches, erect defenses and trenches, or to commence other works of the same nature, the company shall proceed immediately to make them at the points designated by the Government.

ART. 23. The Engineer of Public Works, when the owner of the concession or lessor within the fixed time shall not repair the damages, or shall not have the works completed, shall, after the order of the Governor General, repair said damages or injuries or do the work necessary under the administration system. The Governor shall order the attachment of the funds of the neighboring stations to meet the payment of the said works or repairs. A receipt for the funds attached shall be given to the station masters. These documents shall be afterwards exchanged for the verified accounts

of expenses in the form in which the works of the State are vouched for. If there be opposition to the seizure of the funds, aid shall be asked of the Governor of the Province, who shall give it, even if it be with the troops at his command.

ART. 24. The division of the line in kilometers, the levels, the radii and lengths of the curves, shall be fixed according to the provisions ordered by the Secretary of the Colonies. They should be, whenever possible, on the right of the road, and starting from San Juan de Puerto Rico, and from the coast toward the interior.

CHAPTER III.

STATIONS.

ART. 25. Every station shall have on its principal facade an inscription stating its name, and a clock for the regulation of the service of the same and the movement of the trains.

All the clocks of the line shall be regulated daily by the time of the meridian of San Juan de Puerto Rico, whenever the line connects with that Capital without a break; and if there be a break, they shall be regulated by that of the most important station.

All the crossings for pedestrians, vehicles, and horses shall also have signs, so that all the bureaus, offices, warehouses, workshops, and other dependencies of the Company may be known.

ART. 26. Any ticket with changes or erasures shall be refused as worthless.

ART. 27. The Railroad administration, to insure the safety of baggage, packages, or merchandise, shall issue to their owners, or those in charge of them who may represent the owners, proper receipts, stating therein the name and kind of package delivered, the transportation rate charged, and any other matters which may be considered necessary for the better carrying out of the service.

In these receipts the time, according to the Regulations, within which the baggage, packages, or merchandise are to reach their destination must be stated.

ART. 28. In the most public places in each station, the announcement of the office hours, as well as the hours for the sale of tickets, as also the time-tables and rates, shall be constantly on view.

ART. 29. All the stations shall have a superior chief, to whom all the other employees of the stations shall be subordinate.

ART. 30. There shall be in the stations designated by the Governor General—

1. Departments for the officers of inspection and telegraph.
2. A depository in the manner determined by the Company, where lost articles belonging to travelers shall be taken care of.
3. A medicine chest, bandages, and other things needed in case of accident.

ART. 31. The Governor General shall have power to adopt all the proper measures for the best order and policing of the station, the entry, movement, and stoppages in the yards of public and private conveyances used to transport passengers and merchandise, and must inform the Colonial Department, so that it shall confirm, reform, or revoke the orders that have been issued. All privilege and favor of common carriers as to entry, movement, and stoppage in the neighborhood of the stations are prohibited.

CHAPTER IV.

MATERIAL EMPLOYED IN THE SERVICE.

ART. 32. The number of locomotives, tenders, and other vehicles to be used in the service shall be determined in the document of the conditions of the concession. If, for the best public service, it be necessary to increase the material, the Secretary of the Colonies, after hearing the Company, shall take such action as may be proper to obtain it.

ART. 33. The locomotive shall always be provided with all the necessary apparatus to prevent all danger from fire, and shall never be used until after examination by the technical inspection. When, because of wear or any other cause, a locomotive shall have been withdrawn from use, it shall not be again employed, even after repairing it, without an examination by the technical inspection and express permission.

ART. 34. The axles of locomotives, tenders, and other rolling stock of the Company shall be wrought, strong and compact, of smooth surface, without ridges or indentations, and perfectly adapted to the service to be rendered.

ART. 35. In case cast wheels are used, they shall be massive, and must be cast in a metal mold. The Government may prohibit the use of such wheels when, after trial, it shall appear that they may cause accidents imperiling the safety of the passengers.

ART. 36. All the Companies shall state, in a numbered registry, the locomotives in use, stating the day they began service, the work done, the repairs or changes made, and the successive renewal of the different parts. In these statements shall also be included the observations and remarks deemed necessary to form the statistics of the material in use by the Railroad.

ART. 37. In other special and different registries from those stated in the previous article, a statement shall be made showing the details of the axles of the locomotives and tenders, stating in the margin the number of each one, the manufacturer thereof, the day they were first used, the tests to which they were submitted, their constant and periodic work, and the accidents and various repairs. For this purpose each axle shall have its number engraved thereon.

These registries, made with the greatest possible care, shall be presented by the Companies to the Engineers in charge of the technical inspection whenever they may deem it proper to examine them.

ART. 38. Only the persons employed for the purpose by the Company shall fire locomotives. When ready for use, the engineer or fireman shall constantly remain on the platform of the locomotive wherever it may be, on the main line or branches.

ART. 39. The tenders, besides the conditions of solidity and safety, shall have the necessary capacity to contain greater quantities of water and fuel than those which the accompanying locomotives can consume during the run from one deposit to another. They shall also have the necessary room to carry a box of such tools and implements as may be determined upon.

ART. 40. The vehicles to be used for the transportation of passengers shall not be used without the authorization of the technical inspection. This authorization shall be granted when, in accordance with the provisions of the Government, they shall be acknowledged to have all the requisites for the safety and comfort of the passengers.

ART. 41. The place assigned to each passenger shall be at least 45 centimeters wide, 65 centimeters long, and 1 meter 45 centimeters high, measured from the seat. In the interior of all passenger cars there shall be a sign stating not only the number and letter of the car, according to its class, but also the number of its seats, the divisions being clearly made; and also a frame containing such part of these regulations as refer to passengers.

ART. 42. All locomotives, tenders, and cars of a train shall have—

1. The name or initials of the Railroad to which they belong.
2. Their regular numbers.
3. If they be passenger cars, the class to which they belong.

ART. 43. The Company shall constantly keep in good condition the rolling stock, in proportion to the extent and especial needs of the line.

ART. 44. The Administration shall have exclusive jurisdiction of all appeals which may arise against the decisions of the technical inspection, the object of which shall be to abandon that part of the stock which is useless, to order necessary repairs, and to adopt such measures as may be required for the good order and safety of the service.

CHAPTER V.

FORMATION OF TRAINS.

ART. 45. The Governor General, at the request of the Company and within the provisions of the concession, shall determine for

the different points of the line, and as the circumstances may require—

1. The speed.
2. The maximum number of cars.
3. The maximum of weight to be carried in freight trains.
4. The number and weight of the cars with brakes, and the place they are to occupy in the train, the last car in a train being necessarily of this kind. The Governor shall report to the Colonial Department concerning the carrying out of these provisions.

ART. 46. Every engineer running an engine shall have the necessary means to make such signals as are provided for by the Regulations.

ART. 47. The number of passenger cars of each train shall be in accordance with the regulations governing the running of the same. Nevertheless, all necessary trains shall be run so as to enable all those who desire to travel to do so. A special order shall determine the maximum number of cars which shall form a train, in case there are two tracks.

At different points of the line depots of cars shall be established, the trains being completed with these cars when the number of passengers and the best public service demand it.

ART. 48. The locomotive shall always be at the head of the train. Nevertheless this order may be changed, if convenient, in order to facilitate and render safer the necessary movements in the vicinity of the stations and in case of necessary aid to another train. In these cases the speed shall not exceed 16 kilometers per hour.

ART. 49. In placing the cars forming passenger and mixed trains, the orders issued by the Governor General shall be carried out, after hearing the Chief Engineer of Public Works of the Island, and also the Company, and after informing the Colonial Department.

ART. 50. Only in conformity with the instructions given by the Colonial Department, and under such conditions as it may deem proper, may the cars of common carriers form part of the trains.

ART. 51. The carrying in passenger cars of all material which may cause explosions or fires is prohibited.

ART. 52. The cars and wagons which go to make up a train, shall have couplings at the same height, and the centers of these at equal distances, so that they may be coupled without difficulty.

ART. 53. The couplings of cars shall always be kept perfectly clean and oiled.

ART. 54. Every train shall be drawn by a single engine, except in cases of aid on account of damage or other serious reason,

when another engine may be employed, as well as in cases where the Company shall have been previously authorized by the Government.

ART. 55. More than two fired locomotives shall never be placed in a passenger train, and, in general, they both shall be placed at the head of the train, although in special cases, and always with the authorization of the Colonial Department, a different disposition may be made. At the head and following the tenders, there shall be one or two cars which do not carry passengers, according to whether one or two locomotives are attached. At the end of the train another car without passengers shall always be placed, unless the company is authorized by the Government to leave out the end car.

In the passenger trains there shall always be a car with a water-closet. The end car may be omitted whenever continuous automatic brakes are used on the whole train.

ART. 56. In a special registry, the causes which may have occasioned the employment of two engines in the same train shall be stated, whenever the Company is not authorized to do so, also stating the time thus employed and the reasons justifying it. Those charged with the surveillance of the service may examine these reasons and other memoranda referring to it, whenever the best public service demands it.

ART. 57. In due time and after full inspection, the engineer shall satisfy himself that the locomotive and tenders in his care are in good serviceable condition, and are provided with the necessary spare parts.

ART. 58. The chief of the trains, immediately on receiving them, shall examine them with the greatest care, so as to be sure that they are ready for service.

ART. 59. When there is insufficient freight in the car of the chief of the train, it shall be filled with ballast. The weight of this ballast shall be fixed by the Governor General for each line, after hearing the company and the Chief of Public Works.

ART. 60. The chief of the train, the brakeman, and the engineer, shall be, as far as practicable, in communication during the run, so as to be able to give the signal of alarm in case of accident.

ART. 61. The train once running, shall carry the lights and signals provided for in the Regulations of August 8, 1872, in force in Spain, and which are now extended to Puerto Rico, or those Regulations which may in the future be provided for by the Colonial Department, after hearing the Companies.

ART. 62. The passenger cars shall be lighted inside at night, and also during the day, when going through the tunnels determined

by the Government, all preparations being made for that purpose in the nearest station, according to the run.

ART. 63. Before a train moves, the employees who are to go with it shall punctually occupy their proper places, and in due time the chief of the station shall give the signal which advises them to take their places, the engineer finally repeating it with a whistle.

ART. 64. At such points on the line as the Colonial Department, after hearing the Company, shall designate, there shall be engines for aid or in reserve, always fired and ready for service, by day as well as by night.

ART. 65. A special Regulation drawn by the Government, after hearing the Companies, shall determine the service of locomotives, specially devoted to aid, without loss of time, the trains delayed, or in difficulties, for any reason whatsoever.

At the point in the station where the auxiliary locomotives are placed, there shall always be a repair car with the tools and outfit which, in the opinion of the Governor, are considered necessary.

The trains which may be used for the speedy aid of passengers and train in case of accident, shall also have a repair car.

CHAPTER VI.

PROVISIONS AS TO THE RUN, AND STOPPAGE AT INTERMEDIATE STATIONS, AND ARRIVAL OF TRAINS.

ART. 66. At the request of the Companies, the Colonial Department shall determine the running of the trains, and of single engines on double-track roads, as well as the turn-outs in single-track roads.

ART. 67. No train shall start from the station before the hour designated in the time-table.

ART. 68. The existing provisions, or those which may hereafter be adopted by the Colonial Department, shall be enforced, as to the time which must elapse between the starting of a train, to the next one which must follow according to the schedule. In the time between the two trains, no other trains or single engines shall be allowed to leave, except in cases of aid and succor, or when the Company shall be properly authorized therefor by the Government. In the vicinity of the stations, signals shall be placed, which shall immediately inform the engineers whether or not they may bring their locomotives into the station. The engineer shall stop the train as soon as he observes the signal to do so.

ART. 70. Only in case of accident, or force majeure, or repair of the line, shall the train stop on the line.

ART. 71. The existing provisions, or those hereafter adopted by the Colonial Department, shall be enforced, after hearing the Companies, to determine—

1. The special measures of precaution and safety which may be deemed necessary for the running of trains on grades, tunnels, and curves.

2. The highest speed of passenger and freight trains on the different sections of the line.

3. The time which must be employed to make the trip.

4. The precautions which should be adopted for the dispatch and running of special trains.

ART. 72. When a company shall decide to run a special train, and shall advise the engineer in charge of the inspection, stating the reason of the run and the hour of departure, the company shall be held responsible for any accident which may occur.

The departure of these special trains shall be announced by telegraph to all the stations.

ART. 73. Whenever for any reason the train or single engine stops on the line, signals indicating it shall be placed 400 meters on either side of this point.

ART. 74. The signal system shall conform with the provisions of the existing Regulations, or those which may hereafter be issued by the Colonial Department, after hearing the Companies.

ART. 75. At a distance of 300 meters from a crossing with another railroad or tramway, the engineer shall slow up so that he may make a full stop before reaching that point, if the circumstances demand it.

ART. 76. The Colonial Department, after hearing the Company, shall designate the points where signals are to be placed, showing the direction in which switches are turned.

ART. 77. When the trains shall approach the stations where they must stop, the engineer shall regulate the speed at such distance as he may deem proper, so that it shall not pass the station platform where the passengers are to alight. He may also, according to circumstances, stop the locomotive before reaching said point, afterwards reaching it by running it again.

ART. 78. The engineer shall slow up his engine, not only in large cuts where there are curves, but also at other points of the line which do not permit a large surface of the road to be seen.

ART. 79. When, because of unavoidable accident, the locomotive shall run with the tender ahead, whether alone or with the train, the engineer shall take the greatest precautions, the speed in such cases not exceeding 20 kilometers per hour.

ART. 80. When the engineer approaches stations, grade crossings, curves, cuts, or tunnels, he shall sound the steam whistle to

announce the approach of the train. The same signal shall always be repeated when there is doubt as to whether the line is completely clear.

ART. 81. On the arrival of the train at stations, their names, and the time of stoppage, shall be repeatedly and loudly announced.

ART. 82. While the trains remain in the stations they shall be in charge of the station master, who shall, therefore, be responsible for whatever happens in the station.

ART. 83. The chief of the train, on the run, is chief of all the employees thereon, including the engineer and fireman.

ART. 84. When two locomotives draw the same train, the person who has charge of the first shall regulate the run.

The second locomotive shall act only as additional force, and as a mere auxiliary.

ART. 85. The engineer who runs a locomotive without a train shall always do so on his own responsibility, and the fireman shall obey the signals ordered by him in accordance with the Regulations.

ART. 86. The engineer and fireman in charge of the service shall be the only ones on the locomotive.

From this prohibition are excepted the Engineers in charge of the technical inspection, their assistants who have an order or authorization of a chief, and the agents of the Company duly authorized for the purpose.

In every case special care shall be taken that the number of persons shall never be in the way of the handling and best service of the engine.

ART. 87. The Colonial Secretary shall designate the stations in which records of the delays of trains shall be kept, as determined by each Company. In these records the nature and make-up of the trains shall be stated, the numbers of the locomotives drawing them, the hours of departure and arrival, and the causes and duration of the delay.

The agents in charge of the inspections may examine these records whenever they may deem it proper for the better fulfillment of their duties.

ART. 88. By the quickest and most expeditious means at his command, the chief of the train in operation shall advise the master of the next station of any accident which may occur.

The station master shall immediately communicate with the engineer in charge of the inspection of the line, or with his subordinate, and, in a proper case, with the superior authority of the locality.

ART. 89. The urgent measures adopted by the Governor General, proposed by the Chief of Public Works, and referring to the safety

of the trains, shall be obligatory for the Companies when said measures shall have been communicated to the directors.

ART. 90. Thirty days before the date on which it is to go into operation, a sufficient number of copies of the schedule of all trains shall be sent to the Chiefs of the technical and administrative inspection, who, with their report, shall send them to the Governor General within the next ten days, for his approval, in order that he may make the changes which he may deem proper.

ART. 91. Before approving a new schedule of trains for a line the Railroad Companies which are affected thereby must agree, and the consent of the Governor General must be previously obtained; and he shall hear the Department of Communications in reference to the service of the trains which are to carry the Government mail.

ART. 92. If the Governor General, on receiving the schedule of the trains, shall allow the thirty days designated in Article 90 to elapse without giving any answer whatever to the Company, the latter shall put it in force, considering it approved.

ART. 93. When a new system in the service of the Railroad shall be adopted, or the one established shall be partly changed, the public shall be notified at least eight days in advance not only as to the hours of departure of the trains and of their arrival at the stations, but also of the points at which they are to stop.

CHAPTER VII.

PROVISIONS AS TO PASSENGERS AND PERSONS NOT IN THE RAILROAD SERVICE.

ART. 94. The entrance into Railroads is generally prohibited to all persons not employed in the service. From this provision are excepted—

1. The superior authorities of a Province.
2. The local authorities.
3. The engineer and other employees charged with the surveillance of the road.
4. Soldiers and customs officers and police agents, when they come with the express permission of the proper authority in order to perform some service.
5. Persons obtaining permission from the Company.

ART. 95. The passenger who does not present his ticket entitling him to occupy a seat in the train, or, having one of a lower class, occupies one of a higher class, shall in the first case pay double fare, according to the schedule of rates, and in the second case twice the difference between fares, computed from the station at which he entered the train to his destination. If the passenger does not prove where he entered the train, the double fare shall be estimated by the distance from the place in which the last examination of tickets was made.

ART. 96. In case a passenger goes beyond the place indicated in his ticket, he shall only pay the excess corresponding to the greater distance traveled, provided he informs the chief of the train before starting from the station stated in his ticket.

If this notice shall not have been previously given, he shall pay double the amount of the excess of the distance which he may have traveled without a ticket.

ART. 97. The passenger who, on account of the lack of cars, shall be obliged to go into one of a higher class than the one to which he is entitled by his ticket, shall pay nothing to the Company on account of the higher fare.

If, on the contrary, he may be obliged to occupy a seat of a lower class, the Company shall refund to him the amount of his ticket as soon as his trip ends.

ART. 98. It is absolutely prohibited—

1. To enter or leave the cars by any other exit than that opening onto the platforms.

2. To go from one car to another, unless there be a connection between them; or to lean out of the car while it is in motion.

3. To enter or leave the cars except at stations and when the train shall have come to a complete stop.

4. To enter the cars while the train is in motion.

5. To admit into the cars more passengers than can be provided with seats.

ART. 99. No intoxicated person shall be permitted to enter the cars, nor anyone carrying loaded firearms, or packages which, because of their shape, size, or bad odor, may inconvenience the passengers; nor shall any person with a firearm be permitted on the platform, without first proving that it is not loaded.

ART. 100. Passengers have a right to compel the ejection from the car, by the employes of the Company or of the Government, of anyone misbehaving, or who, by word or action, is offensive, or shall interfere with the orders established, or occasion disturbances or quarrels, as well as those who smoke in a car not reserved for smokers.

ART. 101. The Company shall always reserve one or more first-class sections in passenger trains for ladies who, traveling alone, may request it, and another section in which smoking shall be allowed.

These sections shall be designated by signs stating their reservation.

ART. 102. Dogs are not allowed on passenger cars; nevertheless the Company may admit, in special cars, persons who do not desire to part from their dogs, whenever the latter are muzzled.

ART. 103. If any passenger violates the provisions of these Regulations, the agent of the administrative inspection, or in his absence the station and train chief, shall warn him in due season, and when the gravity of the case demands it, institute the proper investigation, in order to establish the facts.

ART. 104. In order that the passengers may make their claims, not only against the Company, but against its agents and employees, there shall be in each station a registry, which shall be inspected every month by those in charge of the administrative and business inspection.

CHAPTER VIII.

RECEIPT, TRANSPORTATION, AND DELIVERY OF BAGGAGE AND MERCHANDISE.

ART. 105. The objects which are transported by Railroads are classified, for the purposes of these Regulations, as follows:

1. Baggage.
2. Parcels.
3. Merchandise.
4. Cattle of all kinds.

ART. 106. Baggage is understood to include clothing, or things for immediate use, destined for the shelter, ornament, or cleanliness of passengers; books or tools of trade or profession, contained in trunks, chests, valises, small chests, boxes, hat boxes, satchels, saddlebags, hand bags, pillows, or under any covering whatsoever, or unpacked.

ART. 107. Baggage shall be transported in the same trains which carry its owners, and shall be delivered to them at the end of the trip.

ART. 108. Parcels are understood to be all the packages which, without being subject to a declaration of contents, require special care and are transported with the same speed as passengers.

ART. 109. All the things which are not included in the classification of the previous articles, are designated under the general name of merchandise.

ART. 110. The fourth classification comprises cattle, hogs, sheep, goats; draft, burden and saddle animals; dogs, and other domestic animals, and domestic and pet birds in cages or boxes with slats.

ART. 111. Whosoever sends merchandise to the railroad stations shall make a previous declaration as to the number of packages, weight, class, and quality.

Special precautionary measures shall be adopted for the transportation of such merchandise as may cause explosions or fires, or the deterioration or contact of which may damage others, more or less.

ART. 112. Every delivery made in the place designated for the proper employees of the company to receive articles to be transported shall be considered as a proper delivery and legally made.

The subordinate employees exclusively occupied in manual labor and the mechanical laborers in the offices and stations shall not be considered as such proper employees.

ART. 113. The Company shall be obliged to make a bill of lading of the parcels brought to it; and for this purpose the Company shall keep numbered stub books; one in which the articles to be transported with the same speed as passengers shall be noted; another in which a record shall be kept of the articles to be carried in freight trains.

In both, the weight and the rate of transportation of the articles shall be stated, in the same order of dates as they are entered in the registry, unless the sender willingly consents to waive this privilege.

At the time of delivery a stub shall be given to the sender or the person in charge of the article, in which the number, class, weights, rate of transportation, and time in which it is to be delivered shall be stated.

ART. 114. The responsibility of the Company as to delivery, to which the previous article refers, commences from the moment in which the Company has taken charge of the merchandise, in the place where it is to be received, although the person in charge of this service may not have entered it in the books of registry.

ART. 115. The Government, in accord with the Companies, and after the information which it may deem convenient, shall designate the stations where tickets for passengers are to be sold, and merchandise billed to all the points connected with the Railroads, even when these points belong to other Companies, as for the purposes of transportation all are to be considered as one line, and for such cases the Royal Decree of the Treasury Department of January 10, 1863, shall be in force and considered a part of these Regulations.

ART. 116. The passenger carrying in his baggage jewels, precious stones, bank notes, money, stocks of industrial companies, bonds of the national debt, or other valuables, shall state it, exhibiting them before the record is made, declaring the total amount represented by these articles, either as to their selling price or the price at which he estimates them.

The failure to comply with this requisite shall relieve the Company of all liability in case of theft or loss.

ART. 117. When the Company, suspicious of the falsity of the declaration of the contents of a parcel, shall determine to examine it, the Company shall proceed to do so before witnesses, and in the presence of the sender or the consignee. If the latter, invited by the Company, are not present at the time, they shall be cited for that purpose by a Notary Public who shall be requested to do so by an expressed order of the proper authority. If even then they do not appear, the parcel shall be opened in the presence of the Notary and the witnesses.

A proper statement shall be drawn of the examination and its result, signed by all those present and certified to by the Notary, in case this officer is present. The place and date of examination shall be set forth, the notice given to the sender or to the consignee, his presence or refusal to attend, the kind of merchandise, its condition and number, details according to the declaration, and everything which may appear and be shown from the examination at the time the parcel containing it is opened; the names, residence, profession, or business of the witnesses.

ART. 118. After the statement of the examination shall be drawn, according to the provisions of the preceding article, the Company shall send it to the Governor of the Province, so that the proper steps may be taken by the Government without prejudice to the right of sending it also to the competent court in case of a civil or criminal action.

ART. 119. The Company shall not delay the time designated for forwarding the parcels agreed to with the shippers, not even giving as an excuse the examination of the parcels, on account of suspicions of fraud or any other reason, as the examination can always be made at the point of delivery. If the examination shows that the shipper has not made a false declaration, the Company shall pay all the expenses of again closing the parcels and putting them in their original condition.

ART. 120. Whosoever shall make a false declaration when shipping merchandise to the stations, in order to pay a lower rate than that of the schedule, shall pay the Company twice the excess, and indemnify the Company for all damages and losses.

ART. 121. When the Company shall receive articles under a sealed cover, it shall be exempt from all liability when delivering them with the seals intact and in the original form to the shipper or to the consignee.

ART. 122. If cash payment is not made in advance for the transportation charges as per schedule, the Company may refuse to carry empty cases, as well as merchandise which may be damaged, or that requiring additional cover to preserve it; and finally, that which, on account of its small value, will not cover the cost of transportation.

ART. 123. The Companies have a right to refuse parcels badly made up, and all those not sufficiently packed so as to preserve the merchandise they contain. Nevertheless, if the sender should insist that they be admitted, the Company shall be obliged to forward them, exempt from all liability, if the Company records its opposition, according to existing provisions, in the receipt issued.

ART. 124. When the receipt or voucher given to the interested parties by the Company does not state the opposition to receive the

merchandise to which the preceding article refers, the Company shall be liable for the damages proved at the time of delivery at the point of destination; but even in this case it may evade the liability if it proves that the damages can not be ascribed to it.

ART. 125. Animals, merchandise, or any other articles to be transported at great speed, shall leave in the first train which includes cars of all kinds, provided they have been presented for record three hours before the time of departure of the trains. They shall be at the disposal of the persons to whom they are addressed two hours after the arrival of the train. If there be no trains with cars of all kinds which run to the place of destination, they are to be transported in the first one leaving, whether it be an express or mail train.

When the transportation is to be made at slow speed, they shall be forwarded, forty-eight hours at the latest, after the entry of the articles, which shall be at the disposal of the consignees twenty-four hours after the arrival of the train. For the transportation of draft and saddle animals, the number of hours' notice shall be given provided for by the schedules.

ART. 126. The shipping papers delivered by the Company to the conductors of the freight trains shall serve as proof in favor of the owners who may have lost their receipt, whenever they are identified.

ART. 127. The regular schedule rates shall be applicable to all packages or parcels, which, although packed separately, constitute a remittance of more than 50 kilograms, provided it is made by one individual and addressed to a single person.

The parcels and excess of baggage, under similar conditions, shall be considered as a single remittance for the collection of the rates fixed by the special schedule.

The Express Companies and other carriers shall not enjoy these benefits unless the articles forwarded by them are packed in a single parcel.

ART. 128. As for the payment of transportation charges on merchandise, animals, and other articles not included in the schedule, they may be included in the class to which they are most similar, which classifications may be made temporarily by the Company itself, but always submitting them to the Colonial Department, which may change, admit, or refuse them, as it may deem best.

ART. 129. Whenever a parcel contains merchandise of different kinds, the rate of transportation to be charged shall be that for the highest class.

ART. 130. The Companies may establish, within the maximum schedules which they may have been permitted to make, and without damage to the national ports and manufactures, other special

rates, in favor of foreigners, between given points on the line; but the privilege to enjoy these rates shall not extend to transportation between other points.

ART. 131. The Companies may reduce the schedule rates in favor of the shippers who may accept a longer time of delivery than those fixed for slow speed, and of those who shall obligate themselves to forward a minimum number of tons, or those who shall offer any advantage for the transportation; but in no case can the Companies evade the liability imposed on them by these regulations for bad service.

ART. 132. Any special reduction or condition granted in favor of one or more shippers shall be extended to all those demanding it, if they comply with identical conditions.

ART. 133. Whenever a Company grants to one or more shippers a reduction of the schedule rates, the Company shall inform the Government of the conditions under which it has been made.

The Companies shall open a registry in which these conditions shall be recorded, and said registry shall be shown to persons who may request it. The registry shall be numbered by pages and rubricated by the chief of the business inspection.

ART. 134. When there are special schedules for the transportation of certain merchandise, notice shall be given the shippers at the time it is shipped, so that they may select the one most advantageous.

ART. 135. The rates fixed for the transportation of merchandise, under special schedules, can not be increased until after one year has elapsed from their publication.

ART. 136. The rates fixed for the transportation of merchandise, by virtue of special schedules, can not be increased until after the expiration of one year from the time of their publication.

ART. 137. The delay in transportation shall give a right to an indemnity for damages, except in cases of force majeure.

ART. 138. The burden of proof in cases of force majeure is on the Company; and until the Company shall have proved it, its liability shall stand.

ART. 139. Robbery shall not be considered a case of force majeure, except when the Company proves that it did everything in its power to prevent it; nor fire, unless it be proved that it was due to the negligence or to the carelessness of the employees; nor the insufficiency or bad condition of the means of transportation.

ART. 140. The Railroad Companies having terminals at the maritime ports, provided they comply with the formalities and conditions prescribed by the custom-houses, may use instead of a baggage depot for the examination of the baggage, the trains by which it is carried.

ART. 141. The Company which may have carried merchandise, without founding any claims whatever, shall have a right of action for the expense of the transportation and care of the merchandise kept in good condition, against the consignees or the shippers.

In default of payment, proceedings shall be instituted in accordance with the Commercial Code.

ART. 142. The consignee shall pay the expenses of repacking whenever the Company shall prove that it was done to preserve the merchandise which would otherwise have decayed or been lost.

ART. 143. Every action, the object of which is commercial, against the Company and in regard to transportation, shall be brought in the Courts.

ART. 144. The provisions of law which submit to proof the weights and measures of merchants and manufacturers in their warehouses, stores, and shops open to the public, are applicable to Railroad Companies in all matters referring to transportation.

ART. 145. The Companies shall always be liable for the loss and damage of articles intrusted to their care, whether the damage is due to the employees themselves or to strangers who may frequent the offices.

ART. 146. If the Company leases a space in one of the cars of its trains, and does not directly nor indirectly interfere in the handling of the freight, the Company shall not be liable for the loss and damage which may result, being exempt from all responsibility.

ART. 147. In case of loss or damage of the article transported, the Company first charged with its handling can not claim, against the others who were charged with the transportation, unless it prove that the merchandise was delivered to them in good condition. All the Railroad Companies are considered to be connected without a break, as if they were a single line, for the purpose of transportation contracts.

ART. 148. The Companies are not responsible for the natural wear and tear on the merchandise when it is greater than ordinary, nor can it be for fraud or carelessness.

ART. 149. In case the merchandise does not arrive at its destination in good condition at the stated time, the owner or consignee has the right to insist on the liability of the Company which may have failed in carrying out the conditions.

In the same way it may be insisted on when the parcels, clearly and distinctly marked so that no doubt can arise, are delivered to a person different from the one who was to receive them.

ART. 150. Unjustifiable delay of passenger trains shall always be punished by fine, in accordance with Article 12 of the Railroad Police Laws, when the delay shall exceed ten minutes for a run of 100 kilometers for express and mail trains, and twenty minutes for the same distance in case of mixed trains.

The Companies shall also be punished by fine, without prejudice to their civil liability, when in the freight service the loss or damage in handling the merchandise shall be due to negligence or carelessness, and when the delays exceed from one-fourth to double the time provided for in the Regulations or agreed upon for the delivery.

ART. 151. If only part of the merchandise is delivered by the Company within the time provided by these Regulations, the other part shall be the basis for damages; but the damages shall cover both, when the consignee shall prove the impossibility of using one without the other.

Exceptions are made in cases of accident and of force majeure, which must be proved on the same day and place on which they may occur, and not by certificates obtained subsequently, and once the proceedings have been begun, unless a disturbance of public order may have prevented the authorities from freely performing their duties.

ART. 152. If the owner of parcels or packages temporarily mislaid shall have been indemnified for their loss, the Company may, when the parcels are found, cite the owner to be present at the opening; and once the delivery is made, the company shall recover the amount it paid, making amends for the damage due to the delay. If from the investigation of the articles a fraud shall appear to have been committed in the declarations made by the owner, the Company shall in turn have a right to collect damages, giving information of the fraud to the Courts of Justice.

ART. 153. The Companies may establish ordinary transportation service in order to facilitate the communication between towns and the neighboring stations.

The interested parties shall nevertheless be at liberty to carry the goods in their own vehicles or send them by trustworthy persons should they prefer it; but in such case, when the parcels are delivered to the stations, this fact must be stated.

The Companies shall then advise the consignee of the arrival of the trains, so that he may send for the merchandise belonging to him. Forty-eight hours are allowed for such purpose, and if he does not remove the merchandise from the station storage shall be charged.

ART. 154. The Companies may also establish schedules in combination with other land or maritime transportation companies, with the condition that on its lines the same rates shall be charged as when the articles are sent to the points favored by the schedule, even though the shippers, at their own expense, shall transport the merchandise by land or water, employing their own vehicles or vessels.

ART. 155. The consignee of merchandise can not refuse to receive it, even on a holiday, if he be in his house when the merchandise is brought there.

ART. 156. The consignee who may desire to prove the weight of the merchandise delivered to him shall pay the expenses of reweighing, provided that the result shall be the weight stated in the receipt, as provided for by article 148.

If they do not agree, the expenses shall be defrayed by the Company.

ART. 157. The examination of the parcels shall be made judicially when the consignee so demands it.

Experts called for this purpose shall state in their report the outward condition of the parcels, their weight, marks and numbers, the nature and amount of the merchandise therein contained, their quality, whether they have been wet or suffered any damage, the time when, in their judgment, the damage occurred, the probable cause thereof, and, finally, the amount of the damage.

ART. 158. The receipt for the articles transported, signed by the consignee, and the payment of the transportation shall extinguish all right of action against the carrier.

ART. 159. The claims against the Companies for loss or damage of articles transported shall be deducted in the manner and time provided for by the Commercial Code.

CHAPTER IX.

PROCEDURE FOR THE PUNISHMENT OF CRIMES AND OFFENSES AGAINST THE SAFETY AND PRESERVATION OF RAILROADS.

ART. 160. The Governor General shall have power—

1. To see that, fully exercising all his powers and with constant supervision, the Alcaldes, in so far as they relate to them, shall in all respects carry out the provisions of the Railroad Police Law and of these Regulations.

2. To impose fines for the offenses stated in Article 12 of the Law, on complaint of the inspectors.

ART. 161. The ordinary tribunals shall have jurisdiction of the crimes committed on Railroads, according to the procedure and provisions of the Railroad Police Law, and other provisions explanatory of the same.

ART. 162. The supervision of the Railroads shall be mainly exercised by the officers of inspection and the Companies' employees, both having for this purpose the character of sworn guards.

ART. 163. According to Titles 2, 3, and 4 of the Railroad Police Law and the provisions of these Regulations, any violation of these articles shall be complained of to the Municipal Judges of the jurisdiction where they may be committed, whether by the employees of the inspection or those of the Company.

ART. 164. The complaint authorized by the title and signature of the complainant shall be made in duplicate, declaring therein the place where the act complained of occurred, its date, the date of the complaint, the name and description of the offender, his residence and domicile, if they be known. On one of the two copies of the complaint, the Judge shall acknowledge receipt thereof and return it to the complainant, keeping the other as the origin and basis of his future proceedings.

ART. 165. Immediately after hearing the interested party, the Judge shall demand that this Law and these Regulations be complied with, imposing the fines in a proper case, collecting them as soon as possible. The trial being ended and the sentence executed, the Judge shall inform the inspectors of the line of the result of the proceedings.

ART. 166. The offenses committed by the owners of concessions or lessors, in the cases mentioned in Article 12 of this Law, shall be punished by the Governor General, on official complaint of the inspectors, who shall specify them as clearly as possible, and classify them according to their importance and consequences.

ART. 167. The Governor, after hearing the owners of the concessions, or the lessors of the Railroads, and the Administrative Council which hears disputes, shall impose on them the penalty which he may deem proper, according to the Railroad Police Law. If the owners of the concessions or the lessors seek the remittance of the fines, they shall petition the Colonial Department through the Governor, who shall send the same, with his own report, for the proper decision. The decision shall always state the reasons, after hearing the authorities or corporations deemed proper, that of the full Council of State being indispensable. From the decision of the Secretary there shall be no appeal.

ART. 168. The authors of the crimes or offenses mentioned in the Railroad Police Law shall be turned over to the competent tribunal, whether by the employees of the Inspectors, or of the Company, or by any other authority, sending mutual assistance in order to fulfill their duty.

CHAPTER X.

MISCELLANEOUS PROVISIONS.

ART. 169. The owners of concessions, or lessors, may freely appoint and discharge their employees; but the Governor General, by the authority of Article 15 of the Police Law and in the cases mentioned therein, may order the Company to discharge any of its employees, communicating the order through the Chief Inspectors, who shall see that the employees are immediately discharged without any appeal.

Discharge from the service may be directed—

1. When the reports of the Chief Engineer of Public Works as to the technical employees show that these are incompetent or that they have placed the safety of the trains in jeopardy.

2. When the reports of the Inspecting Chiefs of Administration as to any employee of the company show that his remaining in the employ is dangerous either to the security of the trains or the maintenance of public order.

Nevertheless, in the latter case the discharge can not be directed nor complaints admitted at the time of elections or thirty days thereafter.

ART. 170. Railroad employees shall wear a uniform, differing according to their class and the road to which they belong.

ART. 171. Road guards and gate keepers can bear the same arms and enjoy the same privileges as Government guards.

ART. 172. No engineer shall be employed in the Railroad service without previously showing, in accordance with the instructions ordered by the Colonial Department, the necessary qualifications for the faithful discharge of his duties.

ART. 173. Notice shall be given immediately by the Station Masters to the Inspectors and to the Governor General, of any accident which may place in jeopardy the safety of the trains or endanger the passengers or employees of the Company or any other persons.

ART. 174. If practice shows that besides the water and fuel deposits existing for the use of the engines, other intermediate deposits at distinct points of the road are necessary, they shall be constructed at the places designated by the Governor after hearing the Companies and the Chief of Public Works.

ART. 175. The special Regulations for the service and operation of each line shall be submitted by the owners of the concession to the approval of the Government.

ART. 176. The written, printed, or lithographed instructions, orders, circulars, and provisions regarding the Railroad service, shall be immediately communicated to the Inspectors.

The manuscript orders shall be copied the day they are issued in a special registry, which shall be presented to the Inspectors whenever demanded.

ART. 177. The Chief Inspectors shall have the right to examine the accounts of the Companies' receipts and expenditures, the Royal Decrees received by the Companies, and any other documents referring to the operation of the road and by which its real condition may be known.

ART. 178. All the notifications to the railroad Companies shall be made at their domicile, and when citations are served on the

Station Masters the citations shall be of legal value only when the Station Masters are duly authorized to represent the Companies.

ART. 179. The Companies shall not resist the attachment of their warehouses and depots when made by judicial order. When attachment is made, in no case shall the articles attached be dispatched and returned to the shipper or consignee, but they shall always be at the disposal of the Court.

ART. 180. It is the duty of the Company to keep in good condition the articles which for any reason may have been deposited in its stations.

When they need more care than the Company can exercise, the procedure shall be in accordance with the provisions of the Commercial Codes for similar cases.

ART. 181. The articles forgotten by passengers and left in trains or waiting rooms, those falling on the way when the train passes, and all those the owners, shippers, or consignees of which are unknown, shall be kept in a depository; a special record shall be made of them, stating the date and place of finding the same, and their description.

ART. 182. If after the third publication of the advertisement in the *Gaceta Oficial de Puerto Rico*, and after a year has elapsed, nobody shall claim the articles forgotten or lost, referred to in the previous article, they shall be sold at auction and the proceeds applied to charity organizations, after deducting the expenses for care and storage.

ART. 183. The telegraph lines in charge of the Companies shall only send news, notices, and dispatches regarding the Railroad service.

ART. 184. The care as well as the attendance and maintenance of the telegraph material, including the wire devoted to the Government service, shall be at the expense of the Companies.

The offenses committed against the telegraph service, and those causing destruction or damage of its material, shall be considered offenses committed against the road, and as such punished according to the provisions of Title 5 of the Railroad Police Law.

ART. 185. In the most public places of the stations, and especially in the waiting rooms, there shall always be posted, for public information, copies of these Regulations.

Its provisions and those of the document of conditions referring to merchandise shall also be posted in the places where the latter is received.

ART. 186. The chief conductor of every train shall always carry on the trip a copy of these Regulations.

The engineers, firemen, brakemen, road guards, and other employees in the service of Railroads, shall be given an extract of the provisions of the Regulations which they may have to observe.

ART. 187. The Secretary of the Colonies or the Governor General, as the case may be, has the power to fix the times when the Companies must submit for approval their Regulations, schedules, and other provisions, which they are compelled to do.

If the time fixed elapses without the Companies doing so, the Government shall decide as it may deem best.

ART. 188. The offenses against these Regulations, the decisions of the Government, and those adopted by the Governor General with the approval of the Government or by virtue of his authority, referring to Railroads and their best service and police, shall be punished according to Title 5 of the Railroad Police Law.

ART. 189. In matters not provided for in these Regulations, as to service and police of the Railroads, the Regulations in force in Spain shall be temporarily followed, if they do not conflict with the Puerto Rican Regulations, without prejudice to the right to consult the Colonial Department for the final decision for the future.

Approved by Royal Decree of this date.

BALAGUER.

MADRID, *January 16, 1888.*

DEPARTMENT OF PUBLIC WORKS, CIVIL CONSTRUCTION, FORESTS, AND MINES.

RAILROADS.

His Excellency, the Secretary of the Colonies. communicates to the Governor General, under date of the 6th ultimo and under No. 101, the following Royal Decree:

COLONIAL DEPARTMENT.

ROYAL DECREE.

MOST EXCELLENT SIR: In view of the consultation by Your Excellency in communication No. 2111, of the 15th of last September, considering the work of extending the lines of the Matanzas Railroad, as to whether in cases such as this there shall be applied the provisions of the Law and Regulations of Railroads, for the construction and service of those roads declared of general utility, or the provision of the same Law and Regulations of Railroads for private use:

Whereas, in Article 2 of the Law of Railroads, Railroads are divided into those of general and private service, and Chapter X refers to the latter under the heading "Railroads devoted to private use," to which, according to Article 63, there shall not be granted the right of eminent domain, nor the occupation of lands belonging to the State, but only those of public property; and whereas, Article 64 declares that there may be Railroads for private use which at the same time may render public service, and for such cases it says that there may be granted the occupation of lands belonging to the State, by virtue of a law, and the right of eminent domain, and that therefore Articles 63 and 64 well define the legal existence of Railroads devoted exclusively to private use, and of the Railroads which, besides having that use, may perform public service, which can not be any other than the transportation of passengers and merchandise; and whereas, the said articles also state what the administration may grant, and how and in what cases, making no distinction for this between one class of Railroads and the other, and referring to the legislative power, the occupation of State lands

and condemnation, when either is asked, because, when it is not asked, said power is not exercised, as the administration has authority to finally resolve as to the occupation of public property; that if there could be any doubt whatever, and it should be contended that the Railroads should comply with different rules and Regulations, the doubt would be dispelled by reading Article 65, which tacitly grants the same rights to both classes of Railroads, and that giving the law a different interpretation from the above would be equivalent to declaring that, when a Railroad is exclusively devoted to private use it has more facilities, advantages, and rights than when the same Railroad does public service, even if in both cases the Companies only ask the occupation of public property.

Considering that the same findings may be deduced not only from the examination of the Railroad Law, but also from the examination of the Regulations for its application, Articles 72, 73, and 74 are developments of Article 63 of the Law, and Articles 75, 76, and 77 of Article 64; but only when condemnation or occupation of State lands is asked, or both at the same time, which is the case provided for in Article 64; that the text of Article 75 leaves no doubt as to this point, because the words, *in this case*, with which the second paragraph commences, only refer to petitions asking the occupation of land of the State, and forcible condemnation, as the Council of Administration of that Island judiciously says in its report, and that if there be a desire to give the words any other interpretation it could not be done after reading paragraph third of the same Article 75, and Articles 76 and 77, which provide for its fulfillment; and, considering that in all these Articles it may be seen that they only refer to condemnation and occupation of State property, and also that there is only one object stated in the second paragraph of Article 77, which is to give the Government all the necessary facts to present to the Cortes the proper form of law.

In conformity with the opinion of the full Consulting Board of Roads, Canals, and Ports, the King (may God preserve him), and in his name the Queen Regent of the Kingdom, has deemed proper to order, as a decision in the said consultation, that the formalities which must be complied with for the construction and operation of the roads of that Island, devoted to public use, which may not have been declared of general utility, and for which neither the right of eminent domain nor the occupation of State lands is asked, although possibly those which are public property shall be the formalities stated in Articles 62, 63, and 65 of the Railroad Law, and in Articles 73 and 74 of the Regulations, and that said decision shall be extended to the Railroads of the same class in Puerto Rico.

By Royal Order I inform Your Excellency, accompanying this with a copy of the Gaceta de Madrid, in which the said Royal Decree is published, which must also be published in the Official Gazette of that Island.

May God preserve Your Excellency many years.

MADRID, *February 7, 1888.*

BALAGUER.

And His Excellency, the Governor General, having decreed its execution under date of the 5th instant, has ordered that it shall be published in this official paper for general information.

PUERTO RICO, *March 10, 1888.*

MIGUEL VASCONI,

Secretary pro tempore of the General Government.

THE
Inter-State Commerce Act,

OF FEBRUARY 4th, 1887,

WITH A SUMMARY OF ITS PROVISIONS.

PRICE, TEN CENTS.

☞ SEE INDEX, PAGE 16. ☞

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AN ACT TO REGULATE COMMERCE.

Classes of carriers to whom the act applies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

Definition of the terms "railroad" and "transportation."

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

Unjust and unreasonable charges prohibited.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

Special rates, rebates, drawbacks, etc., prohibited.

Sec. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

Undue or unreasonable preferences, advantages, prejudices, and disadvantages prohibited.

Sec. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Discrimination between connecting lines prohibited.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines, and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

Less charge for long haul than for included short haul prohibited: except when authorized by the Inter-State Commerce Commission.

Sec. 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially

similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

Freight-pools prohibited.

Sec. 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different or competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof: and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offence.

Schedules of freight-rates and passenger-fares to be kept in all depots and stations.

Sec. 6. That every common carrier subject to the provisions of this act shall print and keep for public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its railroad, as defined by the first section of this act. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force upon such railroad, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect, or determine any part of the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, of at least the size of ordinary pica, and copies for the use of the public shall be kept in every depot or station upon any such railroad, in such places and in such form that they can be conveniently inspected.

Schedules of freight-rates through foreign countries to be kept at every depot where such freight is received. Penalty for neglect.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep for public inspection, at every depot where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties, as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

No advance in rates, fares, or charges so published to be made without ten days' notice.

Reductions to be posted immediately.

No advance shall be made in the rates, fares, and charges which have been established and published as aforesaid by any common carrier, in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. Reductions in such published rates, fares, or charges may be made without previous public notice; but whenever any such reduction is made, notice of the same shall immediately be publicly posted and the changes made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection.

Charges not according to schedules prohibited.

And when any such common carrier shall have established and published its rates, fares, and charges, in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published

schedule of rates, fares, and charges as may at the time be in force.

Schedules, contracts, joint-tariffs, etc., to be filed with the Commission: to be published when directed by the Commission.

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates, or fares, or charges for such continuous lines or routes, copies of such joint tariff shall also, in like manner, be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published; but no common carrier party to any such joint tariff shall be liable for the failure of any other common carrier party thereto to observe and adhere to the rates, fares, or charges thus made and published.

Penalty for violating this section: remedies.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offence may be committed, and if such common carrier be a foreign corporation, in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in

the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this act; and failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

Combinations to make carriage not continuous, prohibited.

Sec. 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, or stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

Carrier to be liable in damages to persons injured, for violating this act.

Sec. 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

Actions for the recovery of damages by persons injured: evidence.

Sec. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act

may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act in any district or circuit court of the United States of competent jurisdiction ; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit ; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Penalty for individual violation by officer, receiver, employee, etc.

Sec. 10. That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall wilfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offence was committed, be subject to a fine of not to exceed five thousand dollars for each offence.

Commission established: appointment, terms, removal, and qualifications of Commissioners.

Sec. 11. That a Commission is hereby created and established to be known as the Inter-State Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and con-

sent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, Anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

Powers of the Commission.

Sec. 12. That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and for the purposes of this act the Commission shall have power to require the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and to that end may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

Co-operative jurisdiction of the U. S. Circuit Courts.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the mat-

ter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Procedure for procuring investigation by the Commission.

Sec. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Investigation at the request of State or Territorial Railroad-Commissioners.

Said Commission shall in like manner investigate any complaint forwarded by the Railroad Commissioner or Railroad Commission of any State or Territory, at the request of such Commissioner or Commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint to be dismissed for want of direct damage to the complainant.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

Report of investigation.

Sec. 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in

writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier, to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed *prima facie* evidence as to each and every fact found.

Records of the Commission.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

Orders of the Commission to carriers found violating the act: exoneration upon compliance.

Sec. 15. That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

Procedure to enforce obedience to orders.

Sec. 16. That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate or refuse or neglect to obey any lawful order or requirement of the Commission in this act named, it shall be the duty of the

Commission, and lawful for any company or person interested in such order or requirement, to apply, in a summary way, by petition, to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the report of said Commission shall be *prima facie* evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of five hundred dollars for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process, manda-

tory or otherwise, and such moneys shall be payable as the court shall direct, either to the party complaining, or into court to abide the ultimate decision of the court, or into the Treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree *in personam* in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the District Attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. For the purpose of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session.

Regulation of the proceedings of the Commission.

Sec. 17. That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations.

Salaries of Commissioners, secretary and employees: offices and office supplies: witness fees and mileage: expenses.

Sec. 18. That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the salaries of judges of the courts of the United States. The Commission shall appoint a Secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties, subject to the approval of the Secretary of the Interior.

The commission shall be furnished by the Secretary of the Interior with suitable offices and all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigation in any other places than in the city of Washington, shall be allowed and paid, on the presentation of itemized vouchers therefor approved by the Chairman of the Commission and the Secretary of the Interior.

Principal office of the Commission: sessions elsewhere.

Sec. 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held: but, whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

Carriers to make annual reports to the Commission if required.

Sec. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the

number of stockholders; the funded and floating debts, and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said commission may, within its discretion, for the purpose of enabling it the better to carry out the purpose of this act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

Annual reports of the Commission.

Sec. 21. That the Commission shall, on or before the first day of December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary.

Exceptions from the operation of the act.

Sec. 22. That nothing in this act shall apply to the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal

officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: Provided, That no pending litigation shall in any way be affected by this act.

Appropriation.

Sec. 23. That the sum of one hundred thousand dollars is hereby appropriated for the use and purposes of this act for the fiscal year ending June thirtieth, Anno Domini eighteen hundred and eighty-eight, and the intervening time anterior thereto.

Time at which the act takes effect.

Sec. 24. That the provisions of sections eleven and eighteen of this act, relating to the appointment and organization of the Commission herein provided for shall take effect immediately, and the remaining provisions of this act shall take effect sixty days after its passage.

Approved, February 4, 1887.

W. ANDREW BOYD,

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SYNOPSIS

OF THE

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OF FEBRUARY 4, 1887.

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THE ACT
TO
REGULATE COMMERCE
(AS AMENDED)
AND
ACTS SUPPLEMENTARY THERETO.

SAFETY APPLIANCE ACTS.
ACT REQUIRING MONTHLY REPORTS OF
ACCIDENTS.
ARBITRATION ACT.

PUBLISHED BY THE INTERSTATE COMMERCE COMMISSION.

Revised to June 30, 1906.

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THE ACT TO REGULATE COMMERCE.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 1. (*As amended June 29, 1906.*) That the provisions

of this Act shall apply to any corporation or any person or persons engaged in the transportation of oil or other commodity, except water and except natural or artificial gas, by means of pipe lines, or partly by pipe lines and partly by railroad, or partly by pipe lines and partly by water, who shall be considered and held to be common carriers within the meaning and purpose of this act, and to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment), from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this Act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

Carriers and transportation subject to the act.

Act does not apply to transportation wholly within one State.

Express companies and sleeping car companies included.

The term "common carrier" as used in this Act shall include express companies and sleeping car companies. The term "railroad," as used in this Act, shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease, and shall also include all switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards, and grounds used or necessary in the transportation or delivery of any of said property; and the term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported; and it shall be the duty of every carrier subject to the provisions of this Act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto.

Charges must be just and reasonable.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

Free passes and free transportation prohibited.

No common carrier subject to the provisions of this Act shall, after January first, nineteen hundred and seven, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees and their families, its officers, agents, surgeons, physicians, and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and

Excepted classes.

those returning home after discharge and boards of managers of such Homes; to necessary care takers of live stock, poultry, and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to Railway Mail Service employees, post-office inspectors, customs inspectors and immigration inspectors; to news-boys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons: *Provided*, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers, and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation. Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense, on conviction, shall pay to the United States a penalty of not less than one hundred dollars nor more than two thousand dollars, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation, shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, and any amendment thereof.

Interchange
of authorized
passes.

Jurisdiction
and penalty for
violation.

From and after May first, nineteen hundred and eight, it shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole, or in part, or in which it may have any interest direct or indirect except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

Railroad companies prohibited from transporting commodities in which they are interested. Timber and products thereof excepted.

Any common carrier subject to the provisions of this Act, upon application of any lateral, branch line of railroad, or of any shipper tendering interstate traffic for transportation, shall construct, maintain, and operate upon reasonable terms a switch connection with any such lateral, branch line of railroad, or private side track which may

Switch connections.

be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same; and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against any such shipper. If any common carrier shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper, such shipper may make complaint to the Commission, as provided in section thirteen of this Act, and the Commission shall hear and investigate the same and shall determine as to the safety and practicability thereof and justification and reasonable compensation therefor and the Commission may make an order, as provided in section fifteen of this Act, directing the common carrier to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the Commission, other than orders for the payment of money.

Switchconnections may be ordered by the Commission.

SEC. 2. That if any common carrier subject to the provisions of this Act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this Act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

Unjust discrimination defined and forbidden.

SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this Act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Undue or unreasonable preference or advantage forbidden.

Every common carrier subject to the provisions of this Act shall, according to their respective powers, afford all

reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

Facilities for interchange of traffic.

Discrimination between connecting lines forbidden.

SEC. 4. That it shall be unlawful for any common carrier subject to the provisions of this Act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this Act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this Act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this Act.

Long and short haul provision.

Commission has authority to relieve carriers from the operation of this section.

SEC. 5. That it shall be unlawful for any common carrier subject to the provisions of this Act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

Pooling of freights and division of earnings forbidden.

SEC. 6. (*Amended March 2, 1889. Following section substituted June 29, 1906.*) That every common carrier subject to the provisions of this Act shall file with the Commission created by this Act and print and keep open to public inspection schedules showing all the rates, fares, and charges for transportation between different points on its own route and between points on its own route and points on the route of any other carrier by railroad, by

pipe line, or by water when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print, and keep open to public inspection, as aforesaid, the separately established rates, fares and charges applied to the through transportation. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the Commission may require, all privileges or facilities granted or allowed and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates, fares, and charges, or the value of the service rendered to the passenger, shipper, or consignee. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be kept posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected. The provisions of this section shall apply to all traffic, transportation, and facilities defined in this Act.

Printing and posting of schedules of rates on freight carried through a foreign country.

Any common carrier subject to the provisions of this Act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this Act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

Freight subject to customs duties in case of failure to publish through rates.

Thirty days' public notice of change in rates must be given.

No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after thirty days'

notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: *Provided*, That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

Commission may modify requirements of this section.

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

Joint tariffs must specify names of carriers participating. Evidence of concurrence.

Every common carrier subject to this Act shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this Act to which it may be a party.

Copies of contracts, agreements or arrangements relating to traffic must be filed with Commission.

The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

Commission may prescribe forms of schedules.

No carrier, unless otherwise provided by this Act, shall engage or participate in the transportation of passengers or property, as defined in this Act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this Act; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or

No carrier shall engage in transportation unless it files and publishes rates, fares, and charges thereon.

Published rates not to be deviated from.

remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs: *Provided*, That wherever the

“Carrier” means “common carrier.”

word “carrier” occurs in this Act it shall be held to mean “common carrier.”

Preference and expedition of military traffic in time of war.

That in time of war or threatened war preference and precedence shall, upon the demand of the President of the United States, be given, over all other traffic, to the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic.

SEC. 7. That it shall be unlawful for any common carrier subject to the provisions of this Act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

Continuous carriage of freights from place of shipment to place of destination.

SEC. 8. That in case any common carrier subject to the provisions of this Act shall do, cause to be done, or permit to be done any act, matter, or thing in this Act prohibited or declared to be unlawful, or shall omit to do any Act, matter, or thing in this Act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this Act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

Liability of common carriers for damages.

Persons claiming to be damaged may elect whether to complain to the Commission or bring suit in a United States court.

SEC. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this Act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such

common carrier may be liable under the provisions of this Act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Officers of defendant may be compelled to testify.

SEC. 10. (*As amended March 2, 1889.*) That any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this Act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this Act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this Act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this Act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense: *Provided*, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

Penalties for violations of Act by carriers, or when the carrier is a corporation, its officers, agents, or employees: Fine and imprisonment.

Penalties for false billing, etc., by carriers, their officers or agents: Fine and imprisonment.

Any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

Penalties for false billing, etc., by shippers and other persons: Fine and imprisonment.

Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

Penalties for inducing common carriers to discriminate unjustly: Fine and imprisonment. Joint liability with carrier for damages.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier subject to the provisions of this Act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such

person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable, jointly or severally, in an action on the case to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.

SEC. 11. That a Commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this Act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, Anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. (*See section 24.*)

Interstate
Commerce Com-
missioners—how
appointed.

Terms of Com-
missioners.

SEC. 12. (*As amended March 2, 1889, and February 10, 1891.*) That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this Act, and shall keep itself informed as to the manner and method in

Power and
duty of Commis-
sion to inquire
into business of
carriers and keep
itself informed
in regard thereto.

Commission required to execute and enforce provisions of this act. which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorized and required to execute and enforce the provisions of this Act; and, upon the request of the Commission, it shall be the duty of any

Duty of district attorney to prosecute under direction of Attorney-General. district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States all necessary proceedings for the enforcement of the provisions of this Act and for the punishment

Costs and expenses of prosecution to be paid out of appropriation for courts. of all violations thereof, and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this Act the Commission shall have

Power of Commission to require attendance and testimony of witnesses and production of documentary evidence. power to require, by subpœna, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

Commission may invoke aid of courts to compel witnesses to attend and testify. Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpœna the the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

Penalty for disobedience to order of the court. And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this Act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as

Claim that testimony or evidence will tend to criminate will not excuse witness. a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Testimony may be taken by deposition. The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation

depending before the Commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party, or his attorney, proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

Commission may order testimony to be taken by deposition.

Reasonable notice must be given.

Testimony by deposition may be compelled in the same manner as above specified.

Manner of taking depositions.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

When witness is in a foreign country.

Depositions must be filed with the Commission.

Witnesses whose depositions are taken pursuant to this Act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Fees of witnesses and magistrates.

SEC. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act in con-

Complaints to Commission. How and by whom made. How served upon carriers.

Reparation by
carriers before
investigation.

Investigations
of complaints by
the Commission.

Complaints for-
warded by State
railroad com-
missions.

Institution of
inquiries by the
Commission on
its own motion.

Complainant
need not be di-
rectly damaged.

Commission
must make report
of investigations,
stating its con-
clusions and or-
der.

Reparation.

Reports of in-
vestigations
must be entered
of record. Ser-
vice of copies on
parties.

Reports and
decisions. Au-
thorized publica-
tion competent
evidence.

Publication
and distribution
of annual reports
of Commission.

travention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SEC. 14. (*Amended March 2, 1889, and June 29, 1906.*)

That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports.

SEC. 15. (*As amended June 29, 1906.*) That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section thirteen of this Act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this Act, for the transportation of persons or property as defined in the first section of this Act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, to determine and prescribe what will be the just and reasonable rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. All orders of the Commission, except orders for the payment of money, shall take effect within such reasonable time, not less than thirty days, and shall continue in force for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, in respect to joint rates, fares, or charges, shall fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the just and reasonable proportion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

Commission may determine and prescribe just and reasonable rates to be observed as maximum charges.

Commission may determine and prescribe just and reasonable regulations or practices. Commission may order carriers to cease and desist from full extent of violations found. Orders of the Commission effective as prescribed but in not less than thirty days.

Orders shall continue in force not exceeding two years, unless suspended or set aside by Commission or court.

When carriers fail to agree on divisions of joint rate Commission may prescribe proportion of such rate to be received by each carrier.

The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and prescribe the division of such rates as hereinbefore provided, and the terms and conditions under which such through routes shall be operated, when that may

Commission may establish through routes and joint rates.

be necessary to give effect to any provision of this Act, and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through route exists, and this provision shall apply when one of the connecting carriers is a water line.

If the owner of property transported under this Act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and the Commission may, after hearing on a complaint, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for in this section.

Commission may determine just and reasonable charge or allowance for service rendered by owner of property transported or for any instrumentality furnished by such owner and used in such transportation.

Enumeration of powers in this section not exclusive.

The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this Act.

SEC. 16. (*Amended March 2, 1889. Following section substituted June 29, 1906.*) That if, after hearing on a complaint made as provided in section thirteen of this Act, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this Act for a violation thereof, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

Award of damages by Commission.

Petition to United States court in case carrier does not comply with order for payment of money.

If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless

Findings of fact of Commission shall be prima facie evidence in reparation cases. Petitioner not liable for costs in circuit court.

they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, and a petition for the enforcement of an order for the payment of money shall be filed in the circuit court within one year from the date of the order, and not after: *Provided*, That claims accrued prior to the passage of this Act may be presented within one year.

Petitioner's attorney's fees.

Limitation upon action.

Accrued claims.

In such suits all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

Joint plaintiffs may sue joint defendants in courts on awards of damages.

Service of process.

Every order of the Commission shall be forthwith served by mailing to any one of the principal officers or agents of the carrier at his usual place of business a copy thereof; and the registry mail receipt shall be prima facie evidence of the receipt of such order by the carrier in due course of mail.

Service of order of Commission by mailing.

The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper.

Commission may suspend or modify order.

It shall be the duty of every common carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

Carriers, their agents and employees, must comply with such orders.

Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of section fifteen of this Act shall forfeit to the United States the sum of five thousand dollars for each offense. Every distinct viola-

Punishment by forfeiture for refusal to obey order of Commission under section 15.

tion shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.

Forfeiture payable into Treasury and recoverable in civil suit.

The forfeiture provided for in this Act shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs.

Duty of district attorneys to prosecute.

It shall be the duty of the various district attorneys, under the direction of the Attorney-General of the United States, to prosecute for the recovery of forfeitures. The

Costs and expenses to be paid out of appropriation for court expenses.

costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. The Commission may, with the consent of the Attorney-General, employ special counsel in any proceeding under this Act, paying the expenses of such employment out of its own appropriation.

Commission may employ special counsel.

If any carrier fails or neglects to obey any order of the Commission, other than for the payment of money, while the same is in effect, any party injured thereby, or the Commission in its own name, may apply to the circuit court in the district where such carrier has its principal operating office, or in which the violation or disobedience of such order shall happen, for an enforcement of such order. Such application shall be by petition, which shall state the substance of the order and the respect in which the carrier has failed of obedience, and shall be served upon the carrier in such manner as the court may direct, and the court shall prosecute such inquiries and make such investigations, through such means as it shall deem needful in the ascertainment of the facts at issue or which may arise upon the hearing of such petition. If, upon such hearing as the court may determine to be necessary, it appears that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction, or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it, or them, obedience to the same; and in the enforcement of such process the court shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus.

Petition to United States courts in cases of disobedience to order of Commission other than for payment of money. Jurisdiction of court.

Court must enforce disobeyed order if regularly made and duly served.

Appeal to Supreme Court of United States.

From any action upon such petition an appeal shall lie by either party to the Supreme Court of the United States,

and in such court the case shall have priority in hearing and determination over all other causes except criminal causes, but such appeal shall not vacate or suspend the order appealed from.

The venue of suits brought in any of the circuit courts of the United States against the Commission to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office, and may be brought at any time after such order is promulgated. And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office, and if the carrier has its principal operating office in the District of Columbia then the venue shall be in the district where said carrier has its principal office; and jurisdiction to hear and determine such suits is hereby vested in such courts. The provisions of "An Act to expedite the hearing and determination of suits in equity, and so forth," approved February eleventh, nineteen hundred and three, shall be, and are hereby, made applicable to all such suits, including the hearing on an application for a preliminary injunction, and are also made applicable to any proceeding in equity to enforce any order or requirement of the Commission, or any of the provisions of the Act to regulate commerce approved February fourth, eighteen hundred and eighty-seven, and all Acts amendatory thereof or supplemental thereto. It shall be the duty of the Attorney-General in every such case to file the certificate provided for in said expediting Act of February eleventh, nineteen hundred and three, as necessary to the application of the provisions thereof, and upon appeal as therein authorized to the Supreme Court of the United States, the case shall have in such court priority in hearing and determination over all other causes except criminal causes: *Provided*, That no injunction, interlocutory order or decree suspending or restraining the enforcement of an order of the Commission shall be granted except on hearing after not less than five days' notice to the Commission. An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: *Provided further*, That the appeal must be taken within thirty days from the entry of such order or decree and it shall take precedence in the

Venue of suits brought against Commission to enjoin, set aside, annul, or suspend order of Commission.

Provisions of expediting act to apply.

Appeal to Supreme Court.

Priority of case in Supreme Court.

No injunction or interlocutory order to be granted except after not less than 5 days notice.

Appeal to Supreme Court from interlocutory order or decree in 30 days.

appellate court over all other causes, except causes of like character and criminal causes.

Rate schedules, contracts, or agreements, and carrier's annual reports filed with Commission are public records, receivable in courts and by the Commission as prima facie evidence. Certified copies or extracts therefrom also prima facie evidence.

The copies of schedules and tariffs of rates, fares, and charges, and of all contracts, agreements, or arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual reports of carriers made to the Commission, as required by the provisions of this Act, shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of or extracts from any of said schedules, tariffs, contracts, agreements, arrangements, or reports made public records as aforesaid, certified by the secretary under its seal, shall be received in evidence with like effect as the originals.

Commission may grant rehearings.

Application for rehearing shall not operate as stay of proceedings, unless so ordered by Commission.

Commission may, on rehearing, reverse, change, or modify order.

SEC. 16a. (*Added June 29, 1906.*) That after a decision, order, or requirement has been made by the Commission in any proceeding any party thereto may at any time make application for rehearing of the same, or any matter determined therein, and it shall be lawful for the Commission in its discretion to grant such a rehearing if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such general rules as the Commission may establish. No such application shall excuse any carrier from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. In case a rehearing is granted the proceedings thereupon shall conform as nearly as may be to the proceedings in an original hearing, except as the Commission may otherwise direct; and if, in its judgment, after such rehearing and the consideration of all facts, including those arising since the former hearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such rehearing, reversing, changing, or modifying the original determination shall be subject to the same provisions as an original order.

SEC. 17. (*As amended March 2, 1889.*) That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the

ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations and sign subpoenas.

Interstate Commerce Commission. Form of procedure.

Parties may appear before the Commission in person or by attorney.

Official seal.

SEC. 18. (*As amended March 2, 1889.*) [*See Section 24.*] That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the Commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Salaries of Commissioners.

Secretary—how appointed; salary.

Employees.

Offices and supplies.

Witnesses' fees.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission.

Expenses of the Commission—how paid.

SEC. 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted, or delay or expense prevented thereby, the Commission may hold special ses-

Principal office of the Commission.

Sessions of the Commission.

Commission may prosecute inquiries by one or more of its members in any part of the United States.

sions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this Act.

Carriers subject to Act, and owners of railroads engaged in interstate commerce must render full annual reports to Commission; and Commission is authorized to prescribe manner in which reports shall be made and require specific answers to all questions.

SEC. 20. (*As amended June 29, 1906.*) That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this Act, and from the owners of all railroads engaged in interstate commerce as defined in this Act; to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as the Commission may require; and the Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this Act, prescribe a period of time within which all common carriers subject to the provisions of this Act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

What reports of carriers shall contain.

Commission may prescribe uniform system of accounts and manner of keeping accounts.

Annual reports to be filed with Commission by September 30 of each year.

Said detailed reports shall contain all the required statistics for the period of twelve months ending on the thirtieth day of June in each year, and shall be made out under oath and filed with the Commission, at its office in Washington, on or before the thirtieth day of September then next following, unless additional time be granted in any case by the Commission; and if any carrier, person,

Commission may grant additional time.

or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such parties shall forfeit to the United States the sum of one hundred dollars for each and every day it shall continue to be in default with respect thereto. The Commission shall also have authority to require said carriers to file monthly reports of earnings and expenses or special reports within a specified period, and if any such carrier shall fail to file such reports within the time fixed by the Commission it shall be subject to the forfeitures last above provided.

Punishment by forfeiture for failure to file.

Commission may require filing of monthly and special reports.

Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this Act.

Punishment by forfeiture for failure to file special reports.

The oath required by this section may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

Oath to annual reports, how taken.

The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this Act, including the accounts, records, and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. The Commission shall at all times have access to all accounts, records, and memoranda kept by carriers subject to this Act, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority under the order of the Commission to inspect and examine any and all accounts, records, and memoranda kept by such carriers. This provision shall apply to receivers of carriers and operating trustees.

Commission may prescribe forms of accounts, records, and memoranda, and have access thereto.

Carrier can not keep other accounts than those prescribed by Commission.

Commission may employ special examiner to inspect accounts and records.

In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of five hundred dollars for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this Act.

Punishment of carrier by forfeiture for failure to keep accounts or records as prescribed by Commission or allow inspection of accounts or records.

Punishment of person for false entry in accounts or records, or mutilation of accounts or records, or for keeping other accounts than those prescribed by Commission. Fine or imprisonment or both.

Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars, or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment.

Punishment of special examiner who divulges facts or information without authority. Fine or imprisonment or both.

Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the Commission or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than five thousand dollars or imprisonment for a term not exceeding two years, or both.

United States courts may issue mandamus to compel compliance with provisions of Act.

That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney-General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said Act to regulate commerce or of any Act supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said Acts, or any of them.

Commission may employ special agents or examiners to administer oaths, examine witnesses, and receive evidence.

And to carry out and give effect to the provisions of said Acts, or any of them, the Commission is hereby authorized to employ special agents or examiners who shall have power to administer oaths, examine witnesses, and receive evidence.

Receiving common carrier liable for loss or damage on through shipments carried by it or by any connection, irrespective of contract to contrary.

That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading therefor and shall be liable to the lawful holder thereof for any loss, damage, or injury to

such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed:

Provided, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law. Remedies under existing law not barred.

That the common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof. Initial carrier may have recourse upon carrier responsible for loss or damage.

SEC. 21. (*As amended March 2, 1889.*) That the Commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to Congress, and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary; and the names and compensation of the persons employed by said Commission. Annual reports of the Commission to Congress.

SEC. 22. (*As amended March 2, 1889, and February 8, 1895.*) That nothing in this Act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this Act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home. Persons and property that may be carried free or at reduced rates. Mileage, excursion, or commutation passenger tickets.

Passes and free transportation to officers and employees of railroad companies.

Provisions of act are in addition to remedies existing at common law. Pending litigation not affected by act.

Joint interchangeable five-thousand-mile tickets. Amount of free baggage.

Publication of rates.

Sale of tickets.

Penalties.

after discharge, under arrangements with the boards of managers of said homes; nothing in this Act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this Act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act: *Provided further*, That nothing in this act shall prevent the issuance of joint interchangeable five-thousand-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles. But before any common carrier, subject to the provisions of this Act, shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section six of this Act; and all the provisions of said section six relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section six. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section ten of this Act shall apply to any violation of the requirements of this proviso.

NEW SECTION. (*Added March 2, 1889.*) [Sec. 23.] That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the Act to which this is a supplement and all Acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, That if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, That the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this Act or the Act to which it is a supplement.

Jurisdiction of United States courts to issue writs of peremptory mandamus commanding the movement of interstate traffic or the furnishing of cars or other transportation facilities.

Peremptory mandamus may issue, notwithstanding proper compensation of carrier may be undetermined.

Remedy cumulative, and shall not interfere with other remedies provided by the Act.

SEC. 24. (*Added June 29, 1906.*) That the Interstate Commerce Commission is hereby enlarged so as to consist of seven members with terms of seven years, and each shall receive ten thousand dollars compensation annually. The qualifications of the Commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December thirty-first, nineteen hundred and eleven, one for a term expiring December thirty-first, nineteen hundred and twelve. The terms of the present Commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present Commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional Commissioners herein provided for shall be appointed for the full term of seven years, except that any person ap-

Commission to consist of seven members; terms; salaries.

Qualifications and enlargement of Commission.

pointed to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Not more than four Commissioners shall be appointed from the same political party.

(Additional provisions in Act of June 29, 1906.)

Existing laws as to attendance of witnesses and production of evidence applicable in proceedings under this Act. (SEC. 9.) That all existing laws relating to the attendance of witnesses and the production of evidence and the compelling of testimony under the Act to regulate commerce and all Acts amendatory thereof shall apply to any and all proceedings and hearings under this Act.

Conflicting laws repealed. (SEC. 10.) That all laws and parts of laws in conflict with the provisions of this Act are hereby repealed; but the amendments herein provided for shall not affect causes now pending in courts of the United States, but such causes shall be prosecuted to a conclusion in the manner heretofore provided by law.

Amendments not to affect pending causes in court. (SEC. 11.) That this Act shall take effect and be in force from and after its passage.

When Act effective. Joint resolution of June 30, 1906, provides: "That the act entitled 'An act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission,' shall take effect and be in force sixty days after its approval by the President of the United States."

Time of taking effect extended 60 days (August 28, 1906). Public No. 41, approved February 4, 1887, as amended by Public No. 125, approved March 2, 1889, and Public No. 72, approved February 10, 1891. Public No. 38, approved February 8, 1895. Public No. 337, approved June 29, 1906. Public Res., No. 47, approved June 30, 1906.

AN ACT In relation to testimony before the Interstate Commerce Commission, and in cases or proceedings under or connected with an act entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and amendments thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

Attendance and testimony of witnesses and production of documentary evidence compulsory before the Commission, and in any case, criminal or otherwise, in the courts. no person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements and documents before the Interstate Commerce Commission, or in obedience to the subpoena of the Commission, whether such subpoena be signed or issued by one or more Commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged

violation of the act of Congress, entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or of any amendment thereof on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture.

But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing, concerning which he may testify, or produce evidence, documentary or otherwise, before said Commission, or in obedience to its subpoena, or the subpoena of either of them, or in any such case or proceeding: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Immunity to
testifying wit-
nesses.

Perjury ex-
cepted.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements, and documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by fine not less than one hundred dollars nor more than five thousand dollars, or by imprisonment for not more than one year or by both such fine and imprisonment.

Penalties; Fine
or imprison-
ment, or both.

Public, No. 54, approved February 11, 1893.

AN ACT Defining the right of immunity of witnesses under the Act entitled "An act in relation to testimony before the Interstate Commerce Commission," and so forth, approved February eleventh, eighteen hundred and ninety-three, and an act entitled "An act to establish the Department of Commerce and Labor," approved February fourteenth, nineteen hundred and three, and an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, and an act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," approved February twenty-fifth, nineteen hundred and three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That under the immunity provisions in the Act entitled "An Act in relation to testimony before the Interstate Commerce Commission," and so forth, approved February eleventh, eighteen hundred and ninety-three,

in section six of the Act entitled "An Act to establish the Department of Commerce and Labor," approved February fourteenth, nineteen hundred and three, and in the Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, and in the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," approved February twenty-fifth, nineteen hundred and three, immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath.

Immunity extends only to natural persons who give testimony under subpoena.

Public No. 389, approved June 30, 1906.

AN ACT To further regulate commerce with foreign nations and among the States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 1. (As amended June 29, 1906.) That anything done

Carrier corporation as well as officer or agent liable for conviction for misdemeanor.

or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons, except as such penalties are herein changed. The

Penalty.

Failure of carrier to publish rates or observe tariffs a misdemeanor.

willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than one thousand dollars nor more than twenty thousand dollars for each offense; and it shall be unlawful for any person, persons, or corporation

Penalty, fine.

Misdemeanor to offer, grant, give, solicit, accept, or receive any rebate from published rates or other concession or discrimination.

to offer, grant, or give, or to solicit, accept or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereof

whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereof, or whereby any other advantage is given or discrimination is practiced. Every person or corporation, whether carrier or shipper, who shall, knowingly, offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one thousand dollars nor more than twenty thousand dollars: *Provided*, That any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

Penalty, fine
or imprisonment,
or both.

Judicial district in which
cases may be
prosecuted.

In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier, or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereof, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act.

Act of officer or
agent to be also
deemed act of
carrier.

Rates filed or
participated in
by carrier shall,
as against such
carrier, be
deemed legal
rate.

Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier, subject to the provisions of this act, or for whom, as consignor or consignee, any such carrier shall transport property from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or foreign country, who shall knowingly by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transportation of

Forfeiture, in addition to other prescribed penalty, of three times amount of money and value of consideration illegally received shall be paid to the United States.

Attorney-General to collect such forfeiture by civil action.

Period covered to be six years prior to commencement of action.

Persons interested in matters involved in cases before Interstate Commerce Commission or circuit court may be made parties and shall be subject to orders or decrees.

such property, as fixed by the schedules of rates provided for in this act, shall in addition to any penalty provided by this act forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and the Attorney-General of the United States is authorized and directed, whenever he has reasonable grounds to believe that any such person, corporation, or company has knowingly received or accepted from any such common carrier any sum of money or other valuable consideration as a rebate or offset as aforesaid, to institute in any court of the United States of competent jurisdiction a civil action to collect the said sum or sums so forfeited as aforesaid; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both, as the case may be.

SEC. 2. That in any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceedings be instituted before the Interstate Commerce Commission or be begun originally in any circuit court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or shall be authorized by law with respect to carriers.

SEC. 3. That whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the circuit court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several district attorneys of the United States, whenever the Attorney-General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by this act shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said act approved February fourth, eighteen hundred and eighty-seven, entitled "An act to regulate commerce and the acts amendatory thereof." And in proceedings under this act and the acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such

Proceedings to enjoin or restrain departures from published rates or any discrimination prohibited by law against carriers and parties interested in traffic.

Such proceedings shall not prevent actions for recovery of damages or other action authorized by act to regulate commerce or amendments thereof.

Compulsory attendance and testimony of witnesses and production of books and papers.

Immunity to testifying witnesses.

evidence shall not excuse such person from testifying or such corporation producing its books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in such proceeding: *Provided,*

Expediting act of Feb. 11, 1903, to apply in cases prosecuted under direction of Attorney-General in name of Interstate Commerce Commission.

That the provisions of an act entitled "An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July second, eighteen hundred and ninety, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' 'An act to regulate commerce,' approved February fourth, eighteen hundred and eighty-seven, or any other acts having a like purpose that may be hereafter enacted, approved February eleventh, nineteen hundred and three," shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission.

Conflicting laws repealed.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed, but such repeal shall not affect causes now pending, nor rights which have already accrued, but such causes shall be prosecuted to a conclusion and such rights enforced in a manner heretofore provided by law and as modified by the provisions of this act.

SEC. 5. That this act shall take effect from its passage. Public, No. 103, approved February 19, 1903.

(*See additional provisions in act of June 29, 1906, p. 32.*)

AN ACT To expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July second, eighteen hundred and ninety, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or any other acts having a like purpose that may be hereafter enacted.

Expedition of cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any suit in equity pending or hereafter brought in any circuit court of the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, "An act to regulate commerce," approved February fourth, eighteen hundred

and eighty-seven, or any other acts having a like purpose that hereafter may be enacted, wherein the United States is complainant, the Attorney-General may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to each of the circuit judges of the circuit in which the case is pending. Thereupon such case shall be given precedence over others and in every way expedited, and be assigned for hearing at the earliest practicable day, before not less than three of the circuit judges of said circuit, if there be three or more; and if there be not more than two circuit judges, then before them and such district judge as they may select. In the event the judges sitting in such case shall be divided in opinion, the case shall be certified to the Supreme Court for review in like manner as if taken there by appeal as hereinafter provided.

Hearing before
three judges.

Review by
Supreme Court
on certificate.

SEC. 2. That in every suit in equity pending or hereafter brought in any circuit court of the United States under any of said acts, wherein the United States is complainant, including cases submitted but not yet decided, an appeal from the final decree of the circuit court will lie only to the Supreme Court and must be taken within sixty days from the entry thereof: *Provided*, That in any case where an appeal may have been taken from the final decree of a circuit court to the circuit court of appeals before this act takes effect, the case shall proceed to a final decree therein, and an appeal may be taken from such decree to the Supreme Court in the manner now provided by law.

Appeal to Su-
preme Court.

Exception.

Public No. 82, approved February 11, 1903.

AN ACT Supplementary to the act of July first, eighteen hundred and sixty-two, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and also of the act of July second, eighteen hundred and sixty-four, and other acts amendatory of said first-named act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all railroad and telegraph companies to which the United States has granted any subsidy in lands or bonds or loan of credit for the construction of either railroad or telegraph lines, which, by the acts incorporating them, or by any act amendatory or supplementary thereto, are required to con-

Government
aided railroad
and telegraph
lines must them-
selves maintain
and operate.

struct, maintain, or operate telegraph lines, and all companies engaged in operating said railroad or telegraph lines shall forthwith and henceforward, by and through their own respective corporate officers and employees, maintain and operate, for railroad, Governmental, commercial, and all other purposes, telegraph lines, and exercise by themselves alone all the telegraph franchises conferred upon them and obligations assumed by them under the acts making the grants as aforesaid.

Connecting telegraph lines.

SEC. 2. That whenever any telegraph company which shall have accepted the provisions of title sixty-five of the Revised Statutes shall extend its line to any station or office of a telegraph line belonging to any one of said railroad or telegraph companies, referred to in the first section of this act, said telegraph company so extending its line shall have the right and said railroad or telegraph company shall allow the line of said telegraph company so extending its line to connect with the telegraph line of said railroad or telegraph company to which it is extended at the place where their lines may meet, for the prompt and convenient interchange of telegraph business between said companies; and such railroad and telegraph companies, referred to in the first section of this act, shall so operate their respective telegraph lines as to afford equal facilities to all, without discrimination in favor of or against any person, company, or corporation whatever, and shall receive, deliver, and exchange business with connecting telegraph lines on equal terms, and affording equal facilities, and without discrimination for or against any one of such connecting lines; and such exchange of business shall be on terms just and equitable.

Equal facilities required.

Complaints to Interstate Commerce Commission.

SEC. 3. That if any such railroad or telegraph company referred to in the first section of this act, or company operating such railroad or telegraph line shall refuse or fail, in whole or in part, to maintain, and operate a telegraph line as provided in this act and acts to which this is supplementary, for the use of the Government or the public, for commercial and other purposes, without discrimination, or shall refuse or fail to make or continue such arrangements for the interchange of business with any connecting telegraph company, then any person, company, corporation, or connecting telegraph company may apply for relief to the Interstate Commerce Commission, whose duty it shall thereupon be, under such rules and regulations as said Commission may prescribe, to ascertain the facts, and determine and order what arrangement is proper to be made

Duties of the Commission where complaint is made.

in the particular case, and the railroad or telegraph company concerned shall abide by and perform such order; and it shall be the duty of the Interstate Commerce Commission, when such determination and order are made, to notify the parties concerned, and, if necessary, enforce the same by writ of mandamus in the courts of the United States, in the name of the United States, at the relation of either of said Interstate Commerce Commissioners: *Provided*, That the said Commissioners may institute any inquiry, upon their own motion, in the same manner and to the same effect as though complaint had been made.

Commission may institute inquiries on its own motion.

SEC. 4. That in order to secure and preserve to the United States the full value and benefit of its liens upon all the telegraph lines required to be constructed by and lawfully belonging to said railroad and telegraph companies referred to in the first section of this act, and to have the same possessed, used, and operated in conformity with the provisions of this act and of the several acts to which this act is supplementary, it is hereby made the duty of the Attorney-General of the United States, by proper proceedings, to prevent any unlawful interference with the rights and equities of the United States under this act, and under the acts hereinbefore mentioned, and under all acts of Congress relating to such railroads and telegraph lines, and to have legally ascertained and finally adjudicated all alleged rights of all persons and corporations whatever claiming in any manner any control or interest of any kind in any telegraph lines or property, or exclusive rights of way upon the lands of said railroad companies, or any of them, and to have all contracts and provisions of contracts set aside and annulled which have been unlawfully and beyond their powers entered into by said railroad or telegraph companies, or any of them, with any other person, company, or corporation.

Duty of the Attorney-General under this act.

SEC. 5. That any officer or agent of said railroad or telegraph companies, or of any company operating the railroads and telegraph lines of said companies, who shall refuse or fail to operate the telegraph lines of said railroad or telegraph companies under his control, or which he is engaged in operating, in the manner directed in this act and by the acts to which it is supplementary, or who shall refuse or fail, in such operation and use, to afford and secure to the Government and the public equal facilities, or to secure to each of said connecting telegraph lines equal advantages and facilities in the interchange of busi-

Penalties for failure to comply with the provisions of this act or the orders of the Interstate Commerce Commission.

ness, as herein provided for, without any discrimination whatever for or adverse to the telegraph line of any or either of said connecting companies, or shall refuse to abide by, or perform and carry out within a reasonable time the order or orders of the Interstate Commerce Commission, shall in every such case of refusal or failure be guilty of a misdemeanor, and, on conviction thereof, shall in every such case be fined in a sum not exceeding one thousand dollars, and may be imprisoned not less than six months; and in every such case of refusal or failure the party aggrieved may not only cause the officer or agent guilty thereof to be prosecuted under the provisions of this section, but may also bring an action for the damages sustained thereby against the company whose officer or agent may be guilty thereof, in the circuit or district court of the United States in any State or Territory in which any portion of the road or telegraph line of said company may be situated; and in case of suit process may be served upon any agent of the company found in such State or Territory, and such service shall be held by the court good and sufficient.

Actions for damages may also be brought.

Duty of railroad and telegraph lines subject to this act to file copies of contracts and a report with the Commission.

SEC. 6. That it shall be the duty of each and every one of the aforesaid railroad and telegraph companies, within sixty days from and after the passage of this act, to file with the Interstate Commerce Commission copies of all contracts and agreements of every description existing between it and every other person or corporation whatsoever in reference to the ownership, possession, maintenance, control, use, or operation of any telegraph lines, or property over or upon its rights of way, and also a report describing with sufficient certainty the telegraph lines and property belonging to it, and the manner in which the same are being then used and operated by it, and the telegraph lines and property upon its right of way in which any other person or corporation claims to have a title or interest, and setting forth the grounds of such claim, and the manner in which the same are being then used and operated; and it shall be the duty of each and every one of said railroad and telegraph companies annually hereafter to report to the Interstate Commerce Commission, with reasonable fullness and certainty, the nature, extent, value, and condition of the telegraph lines and property then belonging to it, the gross earnings, and all expenses of maintenance, use, and operation thereof, and its relation and business with all connecting telegraph com-

Annual reports to the Commission.

panies during the preceding year, at such time and in such manner as may be required by a system of reports which said Commission shall prescribe; and if any of said railroad or telegraph companies shall refuse or fail to make such reports or any report as may be called for by said Commission, or refuse to submit its books and records for inspection, such neglect or refusal shall operate as a forfeiture, in each case of such neglect or refusal, of a sum not less than one thousand dollars nor more than five thousand dollars, to be recovered by the Attorney-General of the United States, in the name and for the use and benefit of the United States; and it shall be the duty of the Interstate Commerce Commission to inform the Attorney-General of all such cases of neglect or refusal, whose duty it shall be to proceed at once to judicially enforce the forfeitures hereinbefore provided.

Penalties for refusal to make reports to Commission.

Duty of Attorney-General to prosecute.

SEC. 7. That nothing in this act shall be construed to affect or impair the right of Congress, at any time hereafter, to alter, amend, or repeal the said acts hereinbefore mentioned; and this act shall be subject to alteration, amendment, or repeal as, in the opinion of Congress, justice or the public welfare may require; and nothing herein contained shall be held to deny, exclude, or impair any right or remedy in the premises now existing in the United States, or any authority that the Postmaster-General now has under title sixty-five of the Revised Statutes to fix rates, or, of the Government, to purchase lines as provided under said title, or to have its messages given precedence in transmission.

Right of Congress to alter, amend, or repeal.

Equity rights of the Government preserved.

Public No. 237, approved August 7, 1888.

THE SAFETY APPLIANCE ACTS.

AN ACT To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any common carrier engaged in interstate commerce by rail-

Driving-wheel and train brakes.

road to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system, or to run any train in such traffic after said date that has not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

Automatic
couplers.

SEC. 2. That on and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any such common carrier to haul or permit to be hauled or used on its line any car used in moving interstate traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars.

When carriers
may lawfully re-
fuse to receive
cars from con-
necting lines or
shippers.

SEC. 3. That when any person, firm, company, or corporation engaged in interstate commerce by railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section one of this act, it may lawfully refuse to receive from connecting lines of road or shippers any cars not equipped sufficiently, in accordance with the first section of this act, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by this act.

Grab irons and
handholds.

SEC. 4. That from and after the first day of July, eighteen hundred and ninety-five, until otherwise ordered by the Interstate Commerce Commission, it shall be unlawful for any railroad company to use any car in interstate commerce that is not provided with secure grab irons or handholds in the ends and sides of each car for greater security to men in coupling and uncoupling cars.

Standard
height of draw-
bars for freight
cars.

SEC. 5. That within ninety days from the passage of this act the American Railway Association is authorized hereby to designate to the Interstate Commerce Commission the standard height of drawbars for freight cars, measured perpendicular from the level of the tops of the rails to the centers of the drawbars, for each of the several gauges of railroads in use in the United States, and shall fix a maximum variation from such standard height to be allowed between the drawbars of empty and loaded cars. Upon their determination being certified to the Interstate Commerce Commission, said commission shall at once give notice of the standard fixed upon to all common carriers, owners, or lessees engaged in interstate commerce in the United States by such means as the Commission may deem

proper. But should said association fail to determine a standard as above provided, it shall be the duty of the Interstate Commerce Commission to do so, before July first, eighteen hundred and ninety-four, and immediately to give notice thereof as aforesaid. And after July first, eighteen hundred and ninety five, no cars, either loaded or unloaded, shall be used in interstate traffic which do not comply with the standard above provided for.

SEC. 6. (*As amended April 1, 1896.*) That any such common carrier using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this act, shall be liable to a penalty of one hundred dollars for each and every such violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such district attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorneys information of any such violations as may come to its knowledge: *Provided*, That nothing in this act contained shall apply to trains composed of four-wheel cars or to trains composed of eight-wheel standard logging cars where the height of such car from top of rail to center of coupling does not exceed twenty-five inches, or to locomotives used in hauling such trains when such cars or locomotives are exclusively used for the transportation of logs.

SEC. 7. That the Interstate Commerce Commission may from time to time upon full hearing and for good cause extend the period within which any common carrier shall comply with the provisions of this act.

SEC. 8. That any employee of any such common carrier who may be injured by any locomotive, car, or train in use contrary to the provision of this act shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, car, or train had been brought to his knowledge.

Public No. 113, approved March 2, 1893, amended April 1, 1896.

NOTE.—Prescribed standard height of drawbars: Standard-gauge roads, 34½ inches; narrow-gauge roads, 26 inches; maximum variation between loaded and empty cars, 3 inches.

Penalty for violation of the provisions of this act.

Duty of United States district attorney.

Duty of Interstate Commerce Commission.

Exceptions to the act.

Power of Interstate Commerce Commission to extend time of carriers to comply with this act.

Employees not deemed to assume risk of employment.

AN ACT To amend an act entitled "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes," approved March second, eighteen hundred and ninety-three, and amended April first, eighteen hundred and ninety-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That the provisions and requirements of the act entitled

Safety appliance act of Mar. 2, 1893, as amended by act of Apr. 1, 1896, shall apply in Territories and District of Columbia.

Provisions of safety appliance acts as to couplers shall apply in all cases when couplers are brought together.

Safety appliance acts shall apply to all equipment of any railroad engaged in interstate commerce.

"An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes, and their locomotives with driving-wheel brakes, and for other purposes," approved March second, eighteen hundred and ninety-three, and amended April first, eighteen hundred and ninety-six, shall be held to apply to common carriers by railroads in the Territories and the District of Columbia and shall apply in all cases, whether or not the couplers brought together are of the same kind, make, or type; and the provisions and requirements hereof and of said acts relating to train brakes, automatic couplers, grab irons, and the height of drawbars shall be held to apply to all trains, locomotives, tenders, cars, and similar vehicles used on any railroad engaged in interstate commerce, and in the Territories and the District of Columbia, and to all other locomotives, tenders, cars, and similar vehicles used in connection therewith, excepting those trains, cars, and locomotives exempted by the provisions of section six of said act of March second, eighteen hundred and ninety-three, as amended by the act of April first, eighteen hundred and ninety-six, or which are used upon street railways.

Exceptions.

Power or train brakes on not less than 50 per cent of cars in trains shall be used and operated.

SEC. 2. That whenever, as provided in said act, any train is operated with power or train brakes, not less than fifty per centum of the cars in such train shall have their brakes used and operated by the engineer of the locomotive drawing such train; and all power-braked cars in such train which are associated together with said fifty per centum shall have their brakes so used and operated; and, to more fully carry into effect the objects of said act, the Interstate Commerce Commission may, from time to time, after full hearing, increase the minimum percentage of cars in any train required to be operated with power or train brakes which must have their brakes used and oper-

Commission may increase minimum percentage of power or train brake cars to be used.

ated as aforesaid; and failure to comply with any such requirement of the said Interstate Commerce Commission shall be subject to the like penalty as failure to comply with any requirement of this section. Penalty.

SEC. 3. That the provisions of this act shall not take effect until September first, nineteen hundred and three. Nothing in this act shall be held or construed to relieve any common carrier, the Interstate Commerce Commission, or any United States district attorney from any of the provisions, powers, duties, liabilities, or requirements of said act of March second, eighteen hundred and ninety-three, as amended by the act of April first, eighteen hundred and ninety-six; and all of the provisions, powers, duties, requirements, and liabilities of said act of March second, eighteen hundred and ninety-three, as amended by the act of April first, eighteen hundred and ninety-six, shall, except as specifically amended by this act, apply to this act. Act effective Sept. 1, 1903.
Provisions, powers, duties, requirements, and liabilities specified in act of Mar. 2, 1893, and act of Apr. 1, 1896, apply to this act.

Public, No. 133, approved March 2, 1903.

Sundry civil act (appropriations) of June 28, 1902, authorizes Commission to employ "inspectors to execute and enforce the requirements of the safety-appliance act." Employment of inspectors.

JOINT RESOLUTION Directing the Interstate Commerce Commission to investigate and report on block-signal systems and appliances for the automatic control of railway trains.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Commission be, and it is hereby, directed to investigate and report on the use of and necessity for block-signal systems and appliances for the automatic control of railway trains in the United States. For this purpose the Commission is authorized to employ persons who are familiar with the subject, and may use such of its own employees as are necessary to make a thorough examination into the matter. Commission directed to investigate and report on necessity for block signals.

In transmitting its report to the Congress the Commission shall recommend such legislation as to the Commission seems advisable. Commission to take testimony and make recommendations.

To carry out and give effect to the provisions of this resolution the Commission shall have power to issue subpoenas, administer oaths, examine witnesses, require the production of books and papers, and receive depositions

taken before any proper officer in any State or Territory of the United States.

Public Resolution No. 46, approved June 30, 1906.

AN ACT To grant the right of way through the Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes.

* * * * *

Approval by
Commission of
interlocking or
automatic sig-
nals at crossings.

SEC. 18. That when in any case two or more railroads crossing each other at a common grade shall, by a system of interlocking or automatic signals, or by any works or fixtures to be erected by them, render it safe for engines and trains to pass over such crossing without stopping, and such interlocking or automatic signals or works or fixtures shall be approved by the Interstate Commerce Commissioners, then, in that case, it is hereby made lawful for the engines and trains of such railroad or railroads to pass over such crossing without stopping, any law or the provisions of any law to the contrary notwithstanding; and when two or more railroads cross each other at a common grade, either of such roads may apply to the Interstate Commerce Commissioners for permission to introduce upon both of said railroads some system of interlocking or automatic signals or works or fixtures rendering it safe for engines and trains to pass over such crossings without stopping, and it shall be the duty of said Interstate Commerce Commissioners, if the system of works and fixtures which it is proposed to erect by said company are, in the opinion of the Commission, sufficient and proper, to grant such permission.

Common grade
crossing.

Notice of in-
tent to use sig-
nals at crossings.

Division of
cost.

SEC. 19. That any railroad company which has obtained permission to introduce a system of interlocking or automatic signals at its crossing at a common grade with any other railroad, as provided in the last section, may, after thirty days' notice, in writing, to such other railroad company, introduce and erect such interlocking or automatic signal or fixtures; and if such railroad company, after such notification, refuses to join with the railroad company giving notice in the construction of such works or fixtures, it shall be lawful for said company to enter upon the right of way and tracks of such second company, in such manner as to not unnecessarily impede the operation of such road, and erect such works and fixtures, and may recover in any action at law from such second company

one-half of the total cost of erecting and maintaining such interlocking or automatic signals or works or fixtures on both of said roads.

* * * * *

Public No. 26, approved February 28, 1902.

AN ACT Requiring common carriers engaged in interstate commerce to make full reports of all accidents to the Interstate Commerce Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, It shall be the duty of the general manager, superintendent, or other proper officer of every common carrier engaged in interstate commerce by railroad to make to the Interstate Commerce Commission, at its office in Washington, District of Columbia, a monthly report, under oath, of all collisions of trains or where any train or part of a train accidentally leaves the track, and of all accidents which may occur to its passengers or employees while in the service of such common carrier and actually on duty, which report shall state the nature and causes thereof, and the circumstances connected therewith.

Monthly reports of railway accidents.

SEC. 2. That any common carrier failing to make such report within thirty days after the end of any month shall be deemed guilty of a misdemeanor and, upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine of not more than one hundred dollars for each and every offense and for every day during which it shall fail to make such report after the time herein specified for making the same.

Failure to make report within thirty days after end of any month a misdemeanor.

Penalty.

SEC. 3. That neither said report nor any part thereof shall be admitted as evidence or used for any purpose against such railroad so making such report in any suit or action for damages growing out of any matter mentioned in said report.

Reports not to be used in evidence against the carrier.

SEC. 4. That the Interstate Commerce Commission is authorized to prescribe for such common carriers a method and form for making the reports in the foregoing section provided.

Form of report.

Public No. 171, approved March 3, 1901.

JOINT RESOLUTION Instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies in coal and oil, and report on the same from time to time.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Commission be, and is hereby, authorized and instructed immediately to inquire, investigate, and report to Congress, or to the President when Congress is not in session, from time to time as the investigation proceeds—

Commission instructed to examine into subject of railroad discriminations in coal and oil, and make report from time to time.

First. Whether any common carriers by railroad, subject to the interstate-commerce act, or either of them, own or have any interest in, by means of stock ownership in other corporations or otherwise, any of the coal or oil which they, or either of them, directly or through other companies which they control or in which they have an interest, carry over their or any of their lines as common carriers, or in any manner own, control, or have any interest in coal lands or properties or oil lands or properties.

Interest of carriers in coal and oil lands or coal and oil traffic.

Second. Whether the officers of any of the carrier companies aforesaid, or any of them, or any person or persons charged with the duty of distributing cars or furnishing facilities to shippers are interested, either directly or indirectly, by means of stock ownership or otherwise in corporations or companies owning, operating, leasing, or otherwise interested in any coal mines, coal properties, or coal traffic, oil, oil properties, or oil traffic over the railroads with which they or any of them are connected or by which they or any of them are employed.

Interest of railroad officials in coal and oil lands or coal and oil traffic.

Combination or trust in restraint of trade, or monopoly in coal or oil traffic.

Third. Whether there is any contract, combination in the form of trust, or otherwise, or conspiracy in restraint of trade or commerce among the several States, in which any common carrier engaged in the transportation of coal or oil is interested, or to which it is a party; and whether any such common carrier monopolizes or attempts to monopolize, or combines or conspires with any other carrier, company or companies, person or persons to monopolize any part of the trade or commerce in coal or oil, or traffic therein among the several States or with foreign nations, and whether or not, and if so, to what extent, such carriers, or any of them, limit or control, directly or indirectly, the output of coal mines or the price of coal and oil fields or the price of oil.

Fourth. If the Interstate Commerce Commission shall find that the facts or any of them set forth in the three paragraphs above do exist, then that it be further required to report as to the effect of such relationship, ownership, or interest in coal or coal properties and coal traffic, or oil, oil properties, or oil traffic aforesaid, or such contracts or combinations in form of trust or otherwise, or conspiracy or such monopoly or attempt to monopolize or combine or conspire as aforesaid, upon such person or persons as may be engaged independently of any other persons in mining coal or producing oil and shipping the same, or other products, who may desire to so engage, or upon the general public as consumers of such coal or oil.

Commission to make report.

Fifth. That said Commission be also required to investigate and report the system of car supply and distribution in effect upon the several railway lines engaged in the transportation of coal or oil as aforesaid, and whether said systems are fair and equitable, and whether the same are carried out fairly and properly; and whether said carriers, or any of them discriminate against shippers or parties wishing to become shippers over their several lines, either in the matter of distribution of cars or in furnishing facilities or instrumentalities connected with receiving, forwarding, or carrying coal or oil as aforesaid.

System of car supply and distribution.

Sixth. That said Commission be also required to report as to what remedy it can suggest to cure the evils above set forth, if they exist.

Commission to suggest remedy and report facts and conclusions.

Seventh. That said Commission be also required to report any facts or conclusions which it may think pertinent to the general inquiry above set forth.

Eighth. That said Commission be required to make this investigation at its earliest possible convenience and to furnish the information above required from time to time and as soon as it can be done consistent with the performance of its public duty.

Information to be furnished from time to time.

Public Res. No. 8, approved March 7, 1906.

JOINT RESOLUTION Amending joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies, and report on the same from time to time, approved March seventh, nineteen hundred and six.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That joint resolution instructing the Interstate Commerce Com-

mission to make examinations into the subject of railroad discriminations and monopolies, and report on the same from time to time, approved March seventh, nineteen hundred and six, is hereby amended by adding the following thereto:

Commission given full power to compel testimony in coal and oil investigations.

Ninth. To enable the Commission to perform the duties required and accomplish the purposes declared herein, the Commission shall have and exercise under this joint resolution the same power and authority to administer oaths, to subpoena and compel the attendance and testimony of witnesses and the production of documentary evidence, and to obtain full information, which said Commission now has under the act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, and acts amendatory thereof or supplementary thereto now in force or may have under any like statute taking effect hereafter. All the requirements, obligations, liabilities, and immunities imposed or conferred by said act to regulate commerce and by "An act in relation to testimony before the Interstate Commerce Commission in cases under or connected with an act entitled 'An act to regulate commerce,' approved February fourth, eighteen hundred and eighty-seven, and amendments thereto," approved February eleventh, eighteen hundred and ninety-three, shall also apply to all persons who may be subpoenaed to testify as witnesses or to produce documentary evidence in pursuance of the authority herein conferred.

Public Res. No. 11, approved March 21, 1906.

AN ACT Concerning carriers engaged in interstate commerce and their employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

Adjustment of controversies between railroads and their employees.
Scope of act.

the provisions of this act shall apply to any common carrier or carriers and their officers, agents, and employees, except masters of vessels and seamen, as defined in section forty-six hundred and twelve, Revised Statutes of the United States, engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign

country, or from any place in the United States through a foreign country to any other place in the United States.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

The term "employees" as used in this act shall include all persons actually engaged in any capacity in train operation or train service of any description, and notwithstanding that the cars upon or in which they are employed may be held and operated by the carrier under lease or other contract: *Provided, however,* That this act shall not be held to apply to employees of street railroads and shall apply only to employees engaged in railroad train service. In every such case the carrier shall be responsible for the acts and defaults of such employees in the same manner and to the same extent as if said cars were owned by it and said employees directly employed by it, and any provisions to the contrary of any such lease or other contract shall be binding only as between the parties thereto and shall not affect the obligations of said carrier either to the public or to the private parties concerned.

SEC. 2. That whenever a controversy concerning wages, hours of labor, or conditions of employment shall arise between a carrier subject to this act and the employees of such carrier, seriously interrupting or threatening to interrupt the business of said carrier, the chairman of the Interstate Commerce Commission and the Commissioner of Labor shall, upon the request of either party to the controversy, with all practicable expedition, put themselves in communication with the parties to such controversy, and shall use their best efforts, by mediation and conciliation, to amicably settle the same; and if such efforts shall be unsuccessful, shall at once endeavor to bring about an arbitration of said controversy in accordance with the provisions of this act.

SEC. 3. That whenever a controversy shall arise between a carrier subject to this act and the employees of such carrier which can not be settled by mediation and conciliation in the manner provided in the preceding section, said controversy may be submitted to the arbitration of a board of three persons, who shall be chosen in the manner fol-

Terms.

—"railroad."

—"transportation."

—"employees."

Street railroads excepted.

Responsibility of carrier on leased cars.

Chairman of Interstate Commerce Commission and Commissioner of Labor to mediate differences.

Failure to adjust.

Board to arbitrate. How selected.

lowing: One shall be named by the carrier or employer directly interested; the other shall be named by the labor organization to which the employees directly interested belong, or, if they belong to more than one, by that one of them which specially represents employees of the same grade and class and engaged in services of the same nature as said employees so directly interested: *Provided, however,* That when a controversy involves and affects the interests of two or more classes and grades of em-

Controversies affecting different labor organizations.

ployees belonging to different labor organizations, such arbitrator shall be agreed upon and designated by the concurrent action of all such labor organizations; and in cases where the majority of such employees are not members of any labor organization, said employees may by a majority vote select a committee of their own number, which committee shall have the right to select the arbitrator on behalf of said employees. The two thus chosen shall

Third arbitrator.

select the third commissioner of arbitration; but, in the event of their failure to name such arbitrator within five days after their first meeting, the third arbitrator shall be named by the commissioners named in the preceding section. A majority of said arbitrators shall be competent to make a valid and binding award under the provisions hereof. The submission shall be in writing, shall be signed by the employer and by the labor organization representing the employees, shall specify the time and place of meeting of said board of arbitration, shall state the questions to be decided, and shall contain appropriate provisions by which the respective parties shall stipulate, as follows:

Form of submission.

Stipulations of submission.
Time of hearings.

First. That the board of arbitration shall commence their hearings within ten days from the date of the appointment of the third arbitrator, and shall find and file their award, as provided in this section, within thirty days from the date of the appointment of the third arbitrator; and that pending the arbitration the status existing immediately prior to the dispute shall not be changed:

Status of controversy pending arbitration.

Involuntary service.

Provided, That no employee shall be compelled to render personal service without his consent.

Filing of award in the United States circuit court.

Second. That the award and the papers and proceedings, including the testimony relating thereto certified under the hands of the arbitrators and which shall have the force and effect of a bill of exceptions, shall be filed in the clerk's office of the circuit court of the United States for the district wherein the controversy arises or the arbitration is

entered into, and shall be final and conclusive upon both parties, unless set aside for error of law apparent on the record.

Third. That the respective parties to the award will each faithfully execute the same, and that the same may be specifically enforced in equity so far as the powers of a court of equity permit: *Provided*, That no injunction or other legal process shall be issued which shall compel the performance by any laborer against his will of a contract for personal labor or service.

Enforcing award.

Involuntary service.

Fourth. That employees dissatisfied with the award shall not by reason of such dissatisfaction quit the service of the employer before the expiration of three months from and after the making of such award without giving thirty days' notice in writing of their intention so to quit. Nor shall the employer dissatisfied with such award dismiss any employee or employees on account of such dissatisfaction before the expiration of three months from and after the making of such award without giving thirty days' notice in writing of his intention so to discharge.

Notice of termination of service.

Fifth. That said award shall continue in force as between the parties thereto for the period of one year after the same shall go into practical operation, and no new arbitration upon the same subject between the same employer and the same class of employees shall be had until the expiration of said one year if the award is not set aside as provided in section four. That as to individual employees not belonging to the labor organization or organizations which shall enter into the arbitration, the said arbitration and the award made therein shall not be binding, unless the said individual employees shall give assent in writing to become parties to said arbitration.

Continuance in force of award.

Individual employees not parties not bound by award.

SEC. 4. That the award being filed in the clerk's office of a circuit court of the United States, as hereinbefore provided, shall go into practical operation, and judgment shall be entered thereon accordingly at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent upon the record, in which case said award shall go into practical operation and judgment be entered accordingly when such exceptions shall have been finally disposed of either by said circuit court or on appeal therefrom.

Exceptions to award.

At the expiration of ten days from the decision of the circuit court upon exceptions taken to said award, as afore-

Appeal to circuit court of appeals.

Record.

said, judgment shall be entered in accordance with said decision unless during said ten days either party shall appeal therefrom to the circuit court of appeals. In such case only such portion of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said exceptions and to be decided.

Judgment.

The determination of said circuit court of appeals upon said questions shall be final, and being certified by the clerk thereof to said circuit court, judgment pursuant thereto shall thereupon be entered by said circuit court.

Judgment by agreement.

If exceptions to an award are finally sustained, judgment shall be entered setting aside the award. But in such case the parties may agree upon a judgment to be entered disposing of the subject-matter of the controversy, which judgment when entered shall have the same force and effect as judgment entered upon an award.

Powers of arbitration.

SEC. 5. That for the purposes of this act the arbitrators herein provided for, or either of them, shall have power to administer oaths and affirmations, sign subpoenas, require the attendance and testimony of witnesses, and the production of such books, papers, contracts, agreements, and documents material to a just determination of the matters under investigation as may be ordered by the court; and may invoke the aid of the United States courts to compel witnesses to attend and testify and to produce such books, papers, contracts, agreements and documents to the same extent and under the same conditions and penalties as is provided for in the act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, and the amendments thereto.

Agreement to arbitrate.

SEC. 6. That every agreement of arbitration under this act shall be acknowledged by the parties before a notary public or clerk of a district or circuit court of the United States, and when so acknowledged a copy of the same shall be transmitted to the chairman of the Interstate Commerce Commission, who shall file the same in the office of said Commission.

Filing of agreement in office of Interstate Commerce Commission.

Agreement of individual employees to arbitrate.

Any agreement of arbitration which shall be entered into conforming to this act, except that it shall be executed by employees individually instead of by a labor organization as their representative, shall, when duly acknowledged as herein provided, be transmitted to the chairman of the Interstate Commerce Commission, who shall cause a notice in writing to be served upon the arbi-

trators, fixing a time and place for a meeting of said board, which shall be within fifteen days from the execution of said agreement of arbitration: *Provided, however,* That the said chairman of the Interstate Commerce Commission shall decline to call a meeting of arbitrators under such agreement unless it be shown to his satisfaction that the employees signing the submission represent or include a majority of all employees in the service of the same employer and of the same grade and class, and that an award pursuant to said submission can justly be regarded as binding upon all such employees.

Meeting to be called.

Condition.

SEC. 7. That during the pendency of arbitration under this act it shall not be lawful for the employer, party to such arbitration, to discharge the employees, parties thereto, except for inefficiency, violation of law, or neglect of duty; nor for the organization representing such employees to order, nor for the employees to unite in, aid, or abet, strikes against said employer; nor, during a period of three months after an award under such an arbitration, for such employer to discharge any such employees, except for the causes aforesaid, without giving thirty days' written notice of an intent so to discharge; nor for any of such employees, during a like period, to quit the service of said employer without just cause, without giving to said employer thirty days' written notice of an intent so to do; nor for such organization representing such employees to order, counsel, or advise otherwise. Any violation of this section shall subject the offending party to liability for damages: *Provided,* That nothing herein contained shall be construed to prevent any employer, party to such arbitration, from reducing the number of its or his employees whenever in its or his judgment business necessities require such reduction.

Restrictions on parties during pendency of arbitration.

After award.

Penalty.

Reduction of force for business reasons.

SEC. 8. That in every incorporation under the provisions of chapter five hundred and sixty-seven of the United States Statutes of eighteen hundred and eighty-five and eighteen hundred and eighty-six it must be provided in the articles of incorporation and in the constitution, rules, and by-laws that a member shall cease to be such by participating in or by instigating force or violence against persons or property during strikes, lockouts, or boycotts, or by seeking to prevent others from working through violence, threats, or intimidations. Members of such incorporations shall not be personally liable for the acts, debts, or obligations of the corporations, nor shall such

National trade unions.

Forfeiture of membership for violence.

Liabilities.

corporations be liable for the acts of members or others in violation of law; and such corporations may appear by designated representatives before the board created by this act, or in any suits or proceedings for or against such corporations or their members in any of the Federal courts.

Appearance of corporations in arbitration proceedings.
Railroads in hands of Federal receiver. Employees to be heard.
Notice of reduction of wages.
 SEC. 9. That whenever receivers appointed by Federal courts are in the possession and control of railroads, the employees upon such railroads shall have the right to be heard in such courts upon all questions affecting the terms and conditions of their employment, through the officers and representatives of their associations, whether incorporated or unincorporated, and no reduction of wages shall be made by such receivers without the authority of the court therefor upon notice to such employees, said notice to be not less than twenty days before the hearing upon the receivers' petition or application, and to be posted upon all customary bulletin boards along or upon the railway operated by such receiver or receivers.

Prohibition of unjust requirements as conditions to employment.
Attempts to prevent further employment after discharge.
 SEC. 10. That any employer subject to the provisions of this act and any officer, agent, or receiver of such employer who shall require any employee, or any person seeking employment, as a condition of such employment, to enter into an agreement, either written or verbal, not to become or remain a member of any labor corporation, association, or organization; or shall threaten any employee with loss of employment, or shall unjustly discriminate against any employee because of his membership in such a labor corporation, association, or organization; or who shall require any employee or any person seeking employment, as a condition of such employment, to enter into a contract whereby such employee or applicant for employment shall agree to contribute to any fund for charitable, social, or beneficial purposes; to release such employer from legal liability for any personal injury by reason of any benefit received from such fund beyond the proportion of the benefit arising from the employer's contribution to such fund; or who shall, after having discharged an employee, attempt or conspire to prevent such employee from obtaining employment, or who shall, after the quitting of an employee, attempt or conspire to prevent such employee from obtaining employment, is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was committed, shall

Penalty.

be punished for each offense by a fine of not less than one hundred dollars and not more than one thousand dollars.

SEC. 11. That each member of said board of arbitration shall receive a compensation of ten dollars per day for the time he is actually employed, and his traveling and other necessary expenses; and a sum of money sufficient to pay the same, together with the traveling and other necessary and proper expenses of any conciliation or arbitration had hereunder, not to exceed ten thousand dollars in any one year, to be approved by the chairman of the Interstate Commerce Commission and audited by the proper accounting officers of the Treasury, is hereby appropriated for the fiscal years ending June thirtieth, eighteen hundred and ninety-eight, and June thirtieth, eighteen hundred and ninety-nine, out of any money in the Treasury not otherwise appropriated.

Appropriation
for expenses of
arbitration.

SEC. 12. That the act to create boards of arbitration or commission for settling controversies and differences between railroad corporations and other common carriers engaged in interstate or territorial transportation of property or persons and their employees, approved October first, eighteen hundred and eighty-eight, is hereby repealed.

Repeal.

Public No. 115, approved June 1, 1898.